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Paper No. 7

Doyle B. Johnson
CROSBY, HEAFEY, ROACH & MAY
Suite 2000
Two Embarcadero Center
San Francisco CA 94111

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MAR 1 2 2004

OFFICE OF PETITIONS

In re Application of
Lee, et al.
Application No. 10/042,831
Filed: January 8, 2002
Attorney Docket No. 22738.00400

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 (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 nonprovisional 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(s), unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was 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 international application, PCT/JP01/03912, 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. 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 corrected Filing Receipt, which includes the priority claim to the prior-filed international application, including reference to another related application, 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.

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.

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.

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

ATTACHMENT: Corrected Filing Receipt

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APR 2 3 2004
PATENT & TRADEMARK OFFICE

Paper No. 7

Doyle B. Johnson
CROSBY, HEAFEY, ROACH & MAY
Suite 2000
Two Embarcadero Center
San Francisco CA 94111

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OFFICE OF PETITIONS

In re Application of
Lee, et al.
Application No. 10/042,831
Filed: January 8, 2002
Attorney Docket No. 22738.00400

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

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Technology Center 2100

352738.00400

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 20, 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 nonprovisional 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(s), unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was 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 international application, PCT/JP01/03912, 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. 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 corrected Filing Receipt, which includes the priority claim to the prior-filed international application, including reference to another related application, 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.

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.

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.

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

ATTACHMENT: Corrected Filing Receipt

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Paper No. 6

ATTN: AMSTA-AR-GCL
U.S. ARMY TACOM-ARDEC
M. SACHS / BUILDING 3
PICATINNY ARSENAL, NJ 07806-5000

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FEB 2 4 2004

OFFICE OF PETITIONS

In re Application of	:	
Louis J. Adimari	:	
Application No. 10/042,843	:	ON PETITION
Filed: January 11, 2002	:	
Attorney Docket No. DAR-54-98	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 2, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed February 27, 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 29, 2002.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), it will be interpreted as the required statement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

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

Retta Williams

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 5

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

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APR 21 2004

OFFICE OF PETITIONS

In re Application of
William A. HARTSELLE et al
Application No. 10/042,854
filed: January 9, 2002
Attorney Docket No.60027.0093US01/BS01402

DECISION
ON PETITION
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(f) filed December 29, 2003, 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: January 27, 2003. 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. The instant application was published on July 10, 2003.

There is no indication that a change of address has been filed in this case, although the address given on the petition differs from the address of record, A change of address should be filed in this case in accordance with MPEP 601.03. 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 2152 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: Chistopher J. LEONARD
MERCHANT & GOULD, Suite 4900
133 Peachtree Street, NE
Atlanta, GA 30303-1821

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Paper No. 5

PARK, VAUGHAN & FLEMING LLP
508 SECOND STREET
SUITE 201
DAVIS, CA 95616

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MAY 2 8 2002

OFFICE OF PETITIONS

In re Application of :
Walster et al. :
Application No. 10/042,883 :
Filed: January 8, 2002 :
Attorney Docket No. SUN-P6432-SPL :

DECISION ON PETITION

This is a decision on the petition filed February 13, 2002, and supplemented May 7, 2002, to establish that Figures 7A, 7B, 7C, and 7D were part of the originally filed application.

On January 8, 2002, the application was filed.

On February 6, 2002, the Office of Initial Patent Examination mailed a "Notice to File Corrected Application Papers" stating that the application had been accorded a filing date of January 8, 2002, and advising applicants that Figures 7A, 7B, 7C, and 7D described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that the missing figures were deposited on January 8, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Drawings: 8 pages"on January 8, 2002.[1] Petitioner has also submitted a copy of the missing documentation- 8 pages of drawings.[2]

A review of the record indicates that none of the drawings submitted previously by applicant are in the file. The file includes 6 pages of drawings labeled Figures 1-7. However, a review of the drawings indicates that the drawings are from another application and were incorrectly placed in the file jacket for the instant application. The six pages of drawings have been removed and forwarded to the correct application file.

As stated above, the drawings deposited on January 8, 2002, have not been located. However, the evidence is convincing that the application papers deposited on January 8, 2002 included 8 pages of drawings, and that the drawings were subsequently misplaced in the PTO. In view of

---

[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.

[2] Petitioner has submitted, by facsimile transmission, a copy of the originally filed drawings. The only substantial difference between the original drawings and the drawings submitted on February 13, 2002, is a change in margins. The drawings received on February 13, 2002, will be used during prosecution of the application and the copy of the drawings as originally filed will remain attached to the copy of the original petition.

the above, the petition is **granted**. The copy of the drawings submitted with the petition will be used for examination purposes.

Since petitioner has established the Office misplaced the drawings, the petition fee of $130 will be credited to petitioner's deposit account.

The Notice mailed February 6, 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 8, 2002, using the application papers filed on January 8, 2002, and the copy of the 8 pages of drawings filed on February 13, 2002.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 30, 2005

TO SPE OF : ART UNIT 1634

SUBJECT : Request for Certificate of Correction on Patent No.: 6,958,216

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.

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

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

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

Comments:

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER

1634
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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1682

GENENCOR INTERNATIONAL, INC.
ATTENTION: LEGAL DEPARTMENT
925 PAGE MILL ROAD
PALO ALTO, CA 94304

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FEB 1 2 2004

OFFICE OF PETITIONS

In re Application of
Seyfried et al.
Application No. 10/042,930
Filed: October 18, 2001
Attorney Docket No. GC582-C1

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 24, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed May 16, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on August 17, 2003.

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

The Notice of Appeal filed December 24, 2003, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $950.00 extension of time fee submitted with the petition on December 24, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

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Paper No. 8

NIXON PEABODY
CLINTON SQUARE
P.O. BOX 31051
ROCHESTER, NY 14603

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NOV 12 2003

OFFICE OF PETITIONS

In re Application of	:	
Lars Langemyr et al	:	
Application No. 10/042,936	:	DECISION GRANTING PETITION
Filed: January 9, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. CMM-00202	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 28, 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 27, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of February 19, 2004 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 1744 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

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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NIXON PEABODY, LLP
300 S. Riverside Plaza, 16th Floor
CHICAGO, IL 60606-6613

Mail Date: 04/21/2010

Applicant	: Lars Langemyr	: DECISION ON REQUEST FOR
Patent Number	: 7596474	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/042,936	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/09/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **801** 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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Paper No. 062404

FISH & RICHARDSON, PC
12390 El Camino Real
San Diego, CA 92130-2081

JUN 29 2004

In re Application of:
HAJJAR *et al.*
Serial No.: 10/042,947
Filed: January 08, 2002
Attorney Docket No.: **11971-015001**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed February 19, 2004.

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

The request meets all the above stated requirements. The request was signed by Bing Ai, on behalf of himself and all the attorneys/agents of record.

The request is **APPROVED**.

It is noted that this request also withdraws the associate attorneys appointed by Bing Ai on March 25, 2004. As such, there are no attorneys of record at this time.

The Notice of Allowance and Issue Fee Due and Notice of Allowability mailed on April 26, 2004, will be re-mailed to Moser, Patterson & Sheridan, LLP, at the below address, and all future communications from the Office will be directed to the below address, until otherwise notified by applicant.

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

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

cc: Moser, Patterson & Sheridan, LLP
3040 Post Oak Boulevard, Suite 1500
Houston, TX 77056

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Paper No.

PATTERSON, THUENTE,
SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

COPY MAILED

JAN 0 2 2008

OFFICE OF PETITIONS

In re Patent No. 7,228,375	:	LETTER REGARDING
Van Jacobson	:	PATENT TERM ADJUSTMENT
Issue Date: June 5, 2007	:	and
Application No. 10/042,971	:	NOTICE OF INTENT TO ISSUE
Filed: January 7, 2002	:	CERTIFICATE OF CORRECTION
Atty Docket No. 3510.53US01	:	

This is in response to the "PATENT TERM ADJUSTMENT LETTER OF CANDOR AND GOOD FAITH" filed August 8, 2007, notifying the Office of an error in Patentee's favor in the determination of patent term adjustment under 35 U.S.C. § 154(b).

The request for review of the determination of patent term adjustment (PTA) is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **EIGHT HUNDRED TWENTY-SIX (826)** days.

On June 5, 2007, the application matured into U.S. Patent No. 7,228,375, with a revised patent term adjustment of 828 days. Patentee draws the Office's attention to an Electronic Information Disclosure Statement submitted on November 29, 2006, which is two days after a submission of a Response to the Non-Final Office Action on November 27, 2006.

A review of the record confirms that, pursuant to 37 CFR 1.704(c)(8), a period of reduction of 2 days should have been entered in association with the filing of the Information Disclosure Statement (IDS) on November 29, 2006. There is no dispute that this paper was filed after a response was filed on

November 27, 2006. The IDS was not expressly requested by the examiner and did not include a 1.704(d) statement. Accordingly, the period of reduction is 2 days (i.e. November 28, 2006 to November 29, 2006).

In view thereof, the patent should have issued with a revised patent term adjustment of eight hundred twenty-six (826) days.

As this letter was submitted to advise the Office of an error in Patentee's favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks Patentee for their good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred twenty-six (826)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,228,375 B1

DATED : **June 5, 2007**

INVENTOR(S) : Jacobson

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 828 days

Delete the phrase "by 828 days" and insert – by 826 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: AUG 25 2004

rvk
Paper Number: ____

In re application of
Mary A. Lamp et al
Serial No. 10/042,983
Filed: January 08, 2002
For: SOFT, FULLY BAKED BREADSTICKS :

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION, filed May 24, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of April 26, 2004, for failure to timely pay the issue fee as indicated in Notice of Allowability and Notice of Allowance and Issue Fee Due dated December 10, 2003 be withdrawn. The petitioner asserts that the Notice of Allowability and Notice of Allowance and Issue Fee Due were not received by applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

The evidence presented is sufficient to establish that the Notice of Allowability and Notice of Allowance and Issue Fee Due of December 10, 2003 were not received by the petitioner. The evidence provided includes a statement by the petitioner that the Notice of Allowability and Notice of Allowance and Issue Fee Due of December 10, 2003 were not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Notice of Allowability and Notice of Allowance and Issue Fee Due of December 10, 2003 were not received. Also provided are a copy of the attorney's application file jacket (Attachment One) and a copy of the computerized docket record for

SN10/042,983 where the Notice of Allowability and Notice of Allowance and Issue Fee Due of December 10, 2003 would have been posted had it been timely received.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the above noted Notice of Allowability and Notice of Allowance and Issue Fee Due to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

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

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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Michael J. Nickerson
Basch & Nickerson LLP
1777 Penfield Road
Penfield, NY 14526

MAILED

DEC 27 2005

Technology Center 2100

In re Application of: Buckley, et al.
Application No.: 10/042,987
Filed: January 11, 2002
Attorney Docket No.: D/A1651
For: METHOD FOR DOCUMENT VIEWING

DECISION ON PETITION *UNDER 37 CFR §1.181*

This is a decision on the petition filed October 7, 2005, under 37 CFR §1.181, to invoke the Commissioner's supervisory authority and instruct the Examiner to withdraw the Office action dated October 4, 2005 and issue a proper notice of panel decision from pre-appeal brief review.

A petition under this section must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. The petition filed October 7, 2005 includes elements (1) and (2) above.

The petition is **DISMISSED as moot**.

RECENT PROSECUTION HISTORY

On April 20, 2005, the Examiner issued a Non-Final Office action, rejection all pending claims 7-16.

On June 17, 2005, a response and remarks were filed.

On July 15, 2005, a Notice of Appeal and a request for a Pre-Appeal Brief conference was filed.

On October 4, 2005, the Examiner issued a Non-Final Office action, again rejecting all pending claims 7-16.

On October 7, 2005, the instant petition was filed.

On October 31, 2005, an Appeal Brief was filed.

RELIEF REQUESTED

The instant petition under 37 CFR 1.181 requests the following relief: to withdraw the Non-Final Office action dated October 4, 2005 and issue a proper notice of panel decision from pre-appeal brief review.

BASIS OF OPINION

The relevant portions of the Statutes and Rules are reproduced below. Highlighting is added to draw attention to critical phrases.

> 1204.01 [R-3] > Reinstatement of Appeal
> **If an appellant wishes to reinstate an appeal after prosecution is reopened, appellant must file a new notice of appeal in compliance with 37 CFR 41.31 and a complete new appeal brief in compliance with 37 CFR 41.37.** Any previously paid appeal fees set forth in 37 CFR 41.20 for filing a notice of appeal, filing an appeal brief, and requesting an oral hearing (if applicable) will be applied to the new appeal on the same application as long as a final Board decision has not been made on the prior appeal. If, however, the appeal fees have increased since they were previously paid, then appellant must pay the difference between the current fee(s) and the amount previously paid. Appellant must file a complete new appeal brief in compliance with the format and content requirements of 37 CFR 41.37(c) within two months from the date of filing the new notice of appeal. See MPEP § 1205.
>
> 1207.01 [R-3] **> Appeal Conference<
> **An appeal conference is mandatory in all cases in which an acceptable brief (MPEP § *> 1205<) has been filed. However, if the examiner charged with the responsibility of preparing the examiner's answer reaches a conclusion that the appeal should not go forward and the supervisory patent examiner (SPE) approves, then no appeal conference is necessary. >In this case, the examiner may reopen prosecution and issue another Office action.** See MPEP § 1207.04.<

United States Patent and Trademark Office <u>OG Notices: 12 July 2005</u> (reproduced in part below):

> New Pre-Appeal Brief Conference Pilot Program. Effective Date: Effective upon publication of this notice. Effective immediately, the USPTO is offering applicants an optional procedure to review the examiner's rejection *prior to* the actual filing of an appeal brief. Although this procedure will not be appropriate in every appealed application, in the proper situations it can save both the resources of the applicant and the Office.
>
> This pilot program offers applicants an opportunity to request a review of identified matters on appeal employing an appeal conference currently employed in the Office, but *prior to* the filing of an appeal brief. The goals of the program are (1) to identify the presence or absence of clearly improper rejections based upon error(s) in facts, or (2) to identify the omission or presence of essential elements required to establish a prima facie rejection.

> If applicant files any of the following responses after filing a request, but prior to a decision by the appointed panel of examiners assigned to conduct the review, the review process will end and a decision will not be made on the merits of the request:
>
> - ***an appeal brief***
> - a request for continued examination (RCE)
> - an after-final amendment
> - an affidavit or other evidence
> - an express abandonment.

To the extent any purely administrative action such as this is petitionable for supervisory review by the TC Director, the pre-appeal brief review panel decision procedure is as well. However, in the absence of promulgated rules, such a petition is problematic as this procedure is a *pilot program* and the USPTO TC's have a wide degree of flexibility in implementing and administering the program, since this is one of the points of the pilot i.e. to try various ways of implementing to determine what works. Further, since the primary purpose of the pre-appeal brief review panel is to " identify the presence or absence of clearly improper rejections based upon error(s) in facts", it would appear, based upon the reopening of prosecution in the Non-Final Office action of October 4, 2005, that Applicant ultimately received the requested relief sought after in the instant petition.

Finally, as an Appeal Brief was filed on October 31, 2005, the instant application does not comply with one of the provisions of the *pilot program* (identified above), i.e. that the panel decision conference must occur ***prior to*** the filing of an Appeal Brief. If the brief is determined to be acceptable, the Examiner is instructed to proceed in accordance with MPEP §1207.01.

Therefore, in response to the relief requested, it is not possible to grant a request for reinstatement of a notice of panel decision from pre-appeal review. However, an Applicant reserves the right, in this situation, i.e. in response to a subsequent (new) Non-Final Office action, to file a new Notice of Appeal with a further request for pre-appeal brief conference panel review (***prior to*** filing an Appeal Brief).

In view of the above stated reason, the instant petition, filed under 37 CFR §1.181 to invoke supervisory authority, is rendered moot.

Accordingly, the petition is **DISMISSED as MOOT**.

The application is being forwarded to the Examiner for consideration of the propriety of the Appeal Brief filed October 31, 2005, in light of MPEP § 1204.01 and 1205. Telephone inquiries should be directed to the undersigned at 571-272-3595.

Jack Harvey, Director
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

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APR 25 2006
OFFICE OF PETITIONS

In re Patent No. 6,976,982 :
Issue Date: December 20, 2005 :
Application No. 10/042,996 : ON PETITION
Filed: January 9, 2002 :
Attorney Docket No. 17509-0024 :
For: FLEXIBLE MICROCHIP DEVICES FOR
OPHTHALMIC AND OTHER APPLICATIONS

This is a decision on the petition under 37 CFR 1.182, filed March 3, 2006 (certificate of mailing date February 28, 2006), requesting issuance of duplicate Letters Patent for the above-identified application due to non-receipt of the original Letters Patent.

The petition is **granted**.

The file record discloses that the instant application matured into U.S. Patent No. 6,976,982 on December 20, 2005. A review of the official record indicates no major irregularity in the mailing of the December 20, 2005 Letters Patent, and in the absence of a major irregularity there is a strong presumption that the communication was properly mailed to patentee at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

Petitioner contends that the Letters Patent was never received at the correspondence address of record. Petitioner has not provided a showing to bolster the non-receipt assertion. The showing required is the same as that set forth in MPEP Section 711.03(c), subheading Petitions to Withdraw Holding of Abandonment. Basically, the showing must consist of a statement by practitioner stating that a search of the file jacket and records for this application fails to indicate that the Letters Patent for this case was ever received. Additionally, a copy of the docket record or copy of the file jacket contents where the Letters Patent would have been entered had it been

received must be attached to and referenced in practitioner's statement.

While petitioner has not provided an adequate showing of non-receipt, petitioner has authorized the Office to charge the petition fee to petitioner's deposit account and has submitted a statement as to the reason for the request for a duplicate Letters Patent.

Therefore, the petition is granted. Deposit account will be charged the required $400.00 Rule 182 petition fee.

The Publishing Division is directed to issue duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250, extension 139.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. The patent file is being forwarded to the Files Repository.

E. Shirene Willis

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

cc: **Krystal Paige, South Tower, 8th Floor**
Room C-32
Fax - (571) 273-9756
Phone - (703) 308-9250 x 139

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

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APR 26 2006
OFFICE OF PETITIONS

~~COPY MAILED~~
~~APR 25 2006~~
~~OFFICE OF PETITIONS~~

In re Patent No. 6,976,982 :
Issue Date: December 20, 2005 :
Application No. 10/042,996 : ON PETITION
Filed: January 9, 2002 :
Attorney Docket No. 17509-0024 :
For: FLEXIBLE MICROCHIP DEVICES FOR
OPHTHALMIC AND OTHER APPLICATIONS

This is a decision on the petition under 37 CFR 1.182, filed March 3, 2006 (certificate of mailing date February 28, 2006), requesting issuance of duplicate Letters Patent for the above-identified application due to non-receipt of the original Letters Patent.

The petition is **granted**.

The file record discloses that the instant application matured into U.S. Patent No. 6,976,982 on December 20, 2005. A review of the official record indicates no major irregularity in the mailing of the December 20, 2005 Letters Patent, and in the absence of a major irregularity there is a strong presumption that the communication was properly mailed to patentee at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

Petitioner contends that the Letters Patent was never received at the correspondence address of record. Petitioner has not provided a showing to bolster the non-receipt assertion. The showing required is the same as that set forth in MPEP Section 711.03(c), subheading Petitions to Withdraw Holding of Abandonment. Basically, the showing must consist of a statement by practitioner stating that a search of the file jacket and records for this application fails to indicate that the Letters Patent for this case was ever received. Additionally, a copy of the docket record or copy of the file jacket contents where the Letters Patent would have been entered had it been

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A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. The patent file is being forwarded to the Files Repository.

E. Shirene Willis

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

cc: **Krystal Paige, South Tower, 8th Floor**
Room C-32
Fax - (571) 273-9756
Phone - (703) 308-9250 x 139

#3
6/13/02

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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JUN 13 2002

Paper No. 3

Louis H. Iselin
WILLIAMS, MORGAN & AMERSON, P.C.
7676 Hillmont, Suite 250
Houston, TX 77040

In re Application of:	)	
James R. Kauffman	)	
Thomas R. Benson	)	**DECISION ON REQUEST FOR**
Application No.10/042,999	)	**WITHDRAWAL AS ATTORNEY**
Filed: January 9, 2002	)	
For: ENSURING FAIRNESS IN A MULTI-PROCESSOR ENVIRONMENT USING HISTORICAL ABUSE RECOGNITION SPINLOCK ACQUISITION	)	

This is a decision on the Request To Withdraw from Representation filed February 20, 2002.

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

The request filed February 20, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

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

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

cc: Michael F. Heim, Esq.
CONLEY, ROSE & TAYON
600 Travis, Suite 1800
Houston, TX 77002-2912

UNITED STATES PATENT AND TRADEMARK OFFICE

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

REED SMITH, LLP
ATTN: PATENT RECORDS DEPARTMENT
599 LEXINGTON AVENUE, 29TH FLOOR
NEW YORK, NY 10022-7650

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JUL 19 2007

OFFICE OF PETITIONS

In re Application of :
Ralf Wolleschensky et al :
Application No. 10/043,009 : ON PETITION
Filed: January 8, 2002 :
Attorney Docket No. GK-ZEI-3125 / 500343.201

This is a decision on the petition, filed July 17, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 8, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2877 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

ENERGY CONVERSION DEVICES, INC.
2956 WATERVIEW DRIVE
ROCHESTER HILLS MI 48309

COPY MAILED
JUN 17 2004
OFFICE OF PETITIONS

In re Application of	:
Stanford R. Ovshinsky	: DECISION ON PETITION
Application No. 10/043,010	:
Filed: January 11, 2002	:
Attorney Docket No. A0119US	:

This is a decision on the petition under 37 CFR 1.137(b), filed January 20, 2004, to revive the above-identified application. Initially, the petition is being treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

This application became abandoned for failure to properly and timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed February 12, 2002, which set a two-month shortened statutory period to respond. This application became abandoned on April 13, 2002. A Notice of Abandonment was mailed on January 14, 2004.

As to the petition under 37 CFR 1.181:

Petitioner states that he filed a timely response to the Notice to File Missing Parts. In support of the petition, petitioner submits a copy of a postcard receipt date-stamped May 10, 2002, acknowledging receipt of the following: "Received by PTO: Response to Notice to File Missing Parts, a signed Declaration and Power of Attorney, Assignment, Recordation Form Cover Sheet, Formalities Letter and Request for Extension of Time under 37 CFR 1.136(a)." Petitioner included copies of these documents with the present petition.

M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as

prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

The Office notes that if the one-month extension of time was processed, the response would have been timely received.[1] However, even if the Office would have considered the reply timely, it is not a proper response to the Notice because the declaration is defective for the reasons stated below. Accordingly, the petition under 37 CFR 1.181 is **dismissed**.

As to the petition under 37 CFR 1.137(b):

The provisions of 37 CFR 1.137(b) 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 nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee;
>
> (2) the petition fee as set forth in 37 CFR 1.17(m);
>
> (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

---

[1]The Office did not charge Petitioner's Deposit Account for the one-month extension of time to reply.

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

The present petition does not satisfy requirement (1) above.

Petitioner failed to submit an oath or declaration for the patent application in compliance with 37 CFR 1.63. The declaration does not identify the inventor's country of citizenship. The Office notes that the oath or declaration must identify the country of citizenship, as well as "[t]he mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor. . . ." 37 CFR 1.63(c)(1). Accordingly, the petition under 37 CFR 1.137(b) is **dismissed**.

Petitioner must submit an oath or declaration in compliance with 37 CFR 1.63 with any renewed petition under 37 CFR 1.137(b).

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

Further correspondence with respect to this matter should be addressed as follows and to the **Attention of Senior Petitions Attorney Christina Tartera Donnell**:

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

Petitioner's Deposit Account No. 05-1068 will be charged $1,330.00, the fee for the petition under 37 CFR 1.137(b). Petitioner's Deposit Account No. 05-1068 will be credited the $110.00 petition fee, which was incorrectly charged.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 10

ENERGY CONVERSION DEVICES, INC.
2956 WATERVIEW DRIVE
ROCHESTER HILLS MI 48309

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AUG 2 7 2004

OFFICE OF PETITIONS

In re Application of	:
Stanford R. Ovshinsky	: Corrected Decision
Application No. 10/043,010	:
Filed: January 11, 2002	:
Attorney Docket No. A0119US	:

This is a decision on the renewed petition under 37 CFR 1.181 filed August 17, 2004, to withdraw the holding of abandonment.

This application became abandoned for failure to properly and timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed February 12, 2002, which set a two-month extendable period to respond. This application became abandoned on April 13, 2002. A Notice of Abandonment was mailed on January 14, 2004.

On January 20, 2004, petitioner submitted a petition under 37 CFR 1.181 and 37 CFR 1.137(b), which was dismissed by the decision of June 17, 2004. Upon further review, petitioner is correct in stating that he filed a timely and proper response to the Notice to File Missing Parts, as evidenced by his date-stamped postcard receipt.

Accordingly, the decision of June 17, 2004, is hereby vacated and the present petition is granted. The application will be returned to pending status.

Petitioner's Deposit Account No. 05-1068 will be credited $1,330.00, the fee for the petition under 37 CFR 1.137(b), which was previously charged in error. Petitioner's Deposit Account No. 05-1068 will be charged the $110.00 fee for a one-month extension of time to reply to the Notice to File Missing Parts.

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

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

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

Proskaure Rose LLP
Patent Department, Room 17-25
1585 Broadway, NY 10036

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FEB 2 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Gotz et al.	:	
Application No. 10/043,016	:	**ON PETITION**
Filed: January 8, 2002	:	
Attorney Docket No. 20496-315	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed February 7, 2002, which set a period for reply of (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were submitted. Accordingly, the above-identified application became abandoned on April 8, 2002.

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

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

PARK, VAUGHAN & FLEMING LLP
508 SECOND STREET
SUITE 201
DAVIS, CA 95616

COPY MAILED

JUN 1 3 2002

OFFICE OF PETITIONS

In re Application of	:	
Campbell et al.	:	
Application No. 10/043,038	:	DECISION GRANTING
Filed: November 7, 2001	:	PETITION
Attorney Docket No. SUN-P6578-PIP	:	

This is a decision on the petition filed March 12, 2002, to establish that Figures 2 and 3 were part of the originally filed application.

On November 7, 2001, the application was filed.

On March 7, 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 7, 2001, and advising applicants that Figures 2 and 3 described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that Figures 2 and 3 were deposited on November 7, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Drawings 3 pages" on November 7, 2001.[1] A review of the file indicates the presence of page 1 which contains Figure 1 and page 3 which contains Figure 4. Petitioner has also submitted a copy of the missing documentation- page 2 of the drawings which contains Figures 2 and 3.

Upon review of the record, the Figures, deposited on November 7, 2001, have not been located. However, the evidence is convincing that the application papers deposited on November 7, 2001, included Figures 2 and 3, and that the Figures were subsequently misplaced in the PTO.
In view of the above, the petition is **granted**. The copy of Figures 2 and 3 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 7, 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 7, 2001, using the application papers filed on November 7, 2001, and the copy of Figures 2 and 3 filed on March 12, 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
Petition Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/23/2007

TO SPE OF : ART UNIT 2600 (2615)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,096,080

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

Please complete this form and return with file ***(PFW)**, within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** or forward ***(IFW)** to scanning using document code **COCX**.

***Ok to enter changes to item (57) abstract as req. in COCIN?**

Ernest C. White, LIE (703) 308-9390x122

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:

Directed to matters of form not affecting the scope of the invention.

VC. — SPE

2615 — Art Unit

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,096,080
APPLICATION NO.	:	10/043,067
ISSUE DATE	:	August 22, 2006
INVENTOR(S)	:	Kohei Asada and Kazushi Yoshida

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

On the face of the patent, the Abstract should read -- Live performance signals are transferred between live performance providing apparatuses, with the live performance providing apparatuses having respective connection orders, the live performance signal is mixed with a live performance signal captured by the one apparatus. The end live performance providing apparatus mixes a captured live performance signal with the live performance signals mixed by all prior live performance apparatuses, thereby providing a complete live performance signal as a concert sound.--

In Column 1, Line 29, "presents" should read --present--;
In Column 11, Line 26, "correspond" should read --corresponds--;
In Column 13, Line 2, "are" should read --is--;
In Column 15, Line 55, "suffers" should read --suffer--;
In Column 25, Line 8, after "exist", insert --,--;
In Column 27, Line 21, "to ether" should read --together--;
In Column 28, Line 1, "cue" should read --one--;
In Column 28, Line 37, delete "transmits";
In Column 29, Line 12, delete "transmits".

738509_1.DOC

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Dennis M. Smid, Esq.
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090

MAR - 9 2007

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-19-06

TO SPE OF : ART UNIT 1742

SUBJECT : Request for Certificate of Correction on Patent No.: 6960237

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.

M.M. ☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments:

Roy W. King
SPE

1793
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DOCKETED

MAY 0 8 2003

Paper No. 8

SUGHRUE, MION, ZINN,
MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037

COPY MAILED

MAY 0 6 2003

OFFICE OF PETITIONS

In re Application of
Kimihiro Abe
Application No. 10/043,110
Filed: January 14, 2002
Attorney Docket No. Q68048

DECISION ON PETITION

This is a decision on the Petition Under 37 CFR 1.53(e)(2), filed April 3, 2002, in response to a Notice to File Missing Parts of Nonprovisional Application.

Application papers in the above-identified application were filed on January 14, 2002. On February 11, 2002, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, indicating January 14, 2002, as the filing date, but noting that Figure 6 described in the specification appeared to have been omitted from the application. The Notice set a two-month period for reply, with extensions of time available under 37 CFR §1.136(a).

In response, Petitioner filed the instant petition and Preliminary Amendment omitting the reference to Figure 6 in the specification.

The Manual of Patent Examining Procedure ("MPEP"), § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

The mailing of a 'Notice of Omitted Item(s)' will permit the applicant to either: (1) promptly establish prior receipt in the USPTO of the drawing(s) at issue (generally by way of date-stamped postcard receipt (MPEP 503)) (by filing a petition under 37 CFR 1.53); (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date such submission as the application filing date (by filing a petition under 37 CFR 1.182); or (3) "accept the application as deposited in the USPTO [and not] respond to the 'Notice of Omitted Item(s)'", thereby constructively accepting the application as deposited with this Office. Amendment of the specification is required . . . to cancel all references to the omitted drawing[s]. . . ." See MPEP 601.01(g).

In this instance, Petitioner elected option (3).

Accordingly, the petition is **GRANTED**.

However, since the application as filed described a Figure 6, and no drawing labeled Figure 6 was present on January 14, 2002, the application was prima facie incomplete. See MPEP 506 and 608.01(f). Thus, the petition and the petition fee were necessary to correct applicants' filing error. Therefore, the petition fee will not be refunded.

The application is being returned to Technology Center AU 2833 for processing of the Preliminary Amendment.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Derek L. Woods
Petitions Attorney
Office of Petitions

The United States Patent and Trademark Office has changed certain mailing addresses!

Effective May 1, 2003

Use the address **provided in this flyer after May 1, 2003** for any **correspondence** with the United States Patent and Trademark Office (USPTO) in patent-related matters **to organizations reporting to the Commissioner for Patents.**

DO NOT USE the Washington DC 20231 and P.O. Box 2327 Arlington, VA 22202 addresses after May 1, 2003 for **any correspondence** with the USPTO even if these old addresses are indicated in the accompanying Office action or Notice or in any other action, notice, material, form, instruction or *other* information.

Correspondence in patent-related matters **to organizations reporting to the Commissioner for Patents** must now be addressed to:

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

Special Mail Stop designations to replace Special Box designations

Also effective May 1, 2003, the **USPTO is changing the special Box designations for Patents and Trademarks to corresponding Mail Stop designations** (*e.g.*, "Box 4" will now be "Mail Stop 4").

For further information, see *Correspondence with the United States Patent and Trademark Office*, 68 *Fed. Reg. 14332* (March 25, 2003). A copy of the *Federal Register* notice is available on the USPTO's web site at http://www.uspto.gov/web/menu/current.html#register

A listing of specific USPTO mailing addresses (See Patents – specific) will be available on the USPTO's web site on April 15, 2003 at http://www.uspto.gov/main/contacts.htm

Persons filing correspondence with the Office should check the rules of practice, the Official Gazette, or the Office's Internet Web site (www.uspto.gov) to determine the appropriate address and Mail Stop Designation (if applicable) for all correspondence being delivered to the USPTO via the United States Postal Service (USPS).

Questions regarding the content of this flyer should be directed to the Inventor Assistance Center at (703) 308-4357 or toll-free at 1-800-786-9199.

UNITED STATES 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

SUGHRUE, MION, ZINN,
MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037

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NOV 0 6 2006
OFFICE OF PETITIONS

In re Application of Abe :
Application No. 10/043,110 :
Filing Date: January 15, 2002 :
Attorney Docket No. Q68048 :

Decision on Petition

DOCKETED
NOV - 9 2006

This is a decision on the petition under 37 CFR 1.137(a), filed July 26, 2006, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **granted**.

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

A non-final Office action was mailed June 12, 2003. Although a Notice of Abandonment was not mailed, Office records were changed to indicate the application was abandoned based on the non-receipt of a reply to the Office action.

Petitioner asserts a reply was timely filed on September 12, 2003. In support of the petition, petitioner has submitted a date-stamped postcard receipt, indicating the Office received an "Amendment Under 37 C.F.R. § 1.111," on September 12, 2003. A copy of the amendment accompanies the petition.

The original amendment filed September 12, 2003, has been located in the file. The date stamps on the amendment indicate it was received by the Office of Initial Examination on September 12, 2003, and subsequently by Technology Center 2800 on September 15, 2003.

Since a reply was timely filed in response to the non-final Office action, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the Office has not charged a petition fee to petitioner's deposit account.

Technology Center Art Unit 2833 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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OIPE JC68
APR 15 2002
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Paper No. 5

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OCT 05 2000
OFFICE OF PETITIONS
A/C PATENTS

KEIL & WEINKAUF
1101 CONNECTICUT AVENUE N W
WASHINGTON, DC 20036

In re Application of
Appleyard, Langhauser, Horton, Hingmann, Schweier, Rauschenberger, Hennig, Lilge, Schone, and Kersting
Application No. 09/275,771
Filed: 25 March, 1999
Attorney Docket No. 48903/SEE

: DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a)[1] filed on 30 June, 1999.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Stefan Seelert and the transmittal letter from BASF Aktiengesellschaft to non-signing joint inventor Horton establishes that the non-signing inventor was mailed a copy of the application papers but orally refused to execute the declaration. Furthermore, in the handwritten memorandum with a facsimile receipt date of 21 April, 1999, the non-signing joint inventor refused to sign the declaration.

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

---

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

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

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

Telephone inquiries related to this decision 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

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United States Patent and Trademark Office
Washington, D.C. 20231
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OIPE JC68
APR 15 2002
PATENT & TRADEMARK OFFICE

Paper No. 6

Murray Horton
53 Coppice Road
Willaston
Nantwich
Cheshire
CW5 6QD
Great Britain **AIR MAIL**

COPY MAILED

OCT 03 2000

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Appleyard et al.
Application No. 09/275,771
Filed: 25 March, 1999
For: Random Propylene Copolymers

Dear Mr. Horton:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Douglas I. Wood at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a

specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

KEIL & WEINKAUF
1101 CONNECTICUT AVENUE N W
WASHINGTON, DC 20036

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In re Application of
Appleyard et al
Serial No. 09/275,771
Filed: March 25, 1999
For: RANDOM PROPYLENE COPOLYMERS

OIPE JC68 APR 15 2002 PATENT & TRADEMARK OFFICE

DECLARATION TO ACCOMPANY PETITION UNDER 37 CFR 1.47(a)

One of the inventors of the invention of the present application, Murray Horton, refuses to sign the Declaration. At the time of the invention, Mr. Horton was an employee of BASF plc, Great Britain. He subsequently became an employee of Targor Limited ("Targor"). On January 13, 1999 the specification including claims and drawings was forwarded to Mr. Horton. On January 15, 1999 the application papers to be signed were forwarded to inventor David Appleyard, who also became an employee of Targor, with the request to pass them on to Mr. Horton. Because there was no response, on approximately February 10, 1999 the application papers to be signed were additionally forwarded to Mr. Horton with the request to pass them on to Mr. Appleyard.

In a letter of April 12, 1999 (enclosed), Mr. Appleyard informed me that Mr. Horton had left the employ of Targor and refuses to sign the Declaration. On approximately April 16, 1999 I telephoned Mr. Horton and he informed me that he would not sign the Declaration. On May 21, 1999 I sent a further letter to Mr. Horton (enclosed) with the request for him to sign by June 20, 1999. However, until now I have not got any answer.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information or belief are believed to be true; and further that these statements are made with the knowledge that willful false

statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signed at 67056 Ludwigshafen, Germany, this 25th day of June, 1999.

Stefan Seelert, BASF Aktiengesellschaft

dec_Horton.doc

GESAMT SEITEN 03

Dr Stefan Seelert.

15. APR. 1999

Polypropylene Technology
TARGOR

12 April 1999.

Patent Applic^n No OZ 48903.

Dear Stefan —

Documents from Frau Weinerth have been signed and returned to her.
Sorry about the delay but they were sent first to Murray Horton (who now works for Ciba) and he does not wish to sign — his reply to our secretary at Wilton (Linda Slattery) is enclosed.

I hope this poses no problems to you in getting the patent filed.

I'm always glad to help so if there's anything I can do, please send a note to Wilton.

Very best wishes — oder wäre es viel besser ein wenig Deutsch zu benützen? :—

Mit freundlichen Grüßen

David

Dr David Applegard

Ich bin Staatsangehörige von Großb
nicht Deutschland

I've corrected this where necessary & signed alongside so I hope that's valid.

Targor Limited
Novolen
PO Box 5
Wilton Site
Middlesbrough
TS6 8YU
Tel: 01642 443000

Registered Office:
PO Box 4
Earl Road
Cheadle Hulme
Stockport
SK8 6QG

Registered Number:
3370392

Ciba Specialty Chemicals PLC
United Kingdom
Additives

Linda

Please find enclosed documents unsigned. I stated in my last correspondence that having left the employ of Tenjor I did not wish to assign my patent rights.

Best regards Murray.

Ciba

With compliments

Charter Way, Macclesfield
Cheshire SK10 2NX

Tel. 01625 665000
Fax 01625 502674

BASF Aktiengesellschaft · D-67056 Ludwigshafen

Patente, Marken und Lizenzen
Patents, Trademarks & Licenses

21.05.99

Dr. Seelert
ZDX/T - C 6
Tel. (0621) 60-4 30 59
Fax (0621) 60-2 19 25

Mr. Murray Horton

53 Coppice Road
Willaston
Nantwich
Cheshire
CW5 6QD

Great Britain

OIPE JC68
APR 15 2002
PATENT & TRADEMARK OFFICE

RE: O.Z. 0050/48903/See
Patent Application in US and South Africa

Dear Mr. Horton:

You are one of the inventors of the abovementioned application.

You were employed by BASF plc at the date of the invention. Please be reminded that the first notification of the invention, the "NAE", entered the patent department of BASF Aktiengesellschaft on October 7, 1996.

According to the provisions of the service contract of BASF plc and according to British law, the right to an invention of an employee of BASF plc is automatically assigned to BASF plc. BASF plc assigned its share of the inventions related to O.Z. 0050/48903/See to BASF Aktiengesellschaft by an assignment declaration dated September 25, 1997. Therefore, BASF Aktiengesellschaft was entitled to file the priority application in Germany.

According to national law in US and South Africa the inventors have additionally to assign their share of the invention on a special form for applications in these countries. Because of the abovementioned legal situation you are obliged to assign you share of the invention to BASF Aktiengesellschaft. However, you refused to sign the application papers and confirmed this decision by phone to me.

BASF

Since you are obliged to sign and principally the rights are already with us, for ease of prosecution we kindly ask you again to sign the attached application papers and send them back to us not later than June 20, 1999.

Very truly yours,

BASF Aktiengesellschaft
Patents, Trademarks & Licenses

See i.V. ppa. Stark

i.V. Cimniak ppa. Stark

Attachment
US specification including claims and drawings
Declaration and assignments

SPE : T. Lamb

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/7/07

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/043,125 Patent No.: 7095521

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.

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

Comments: _____

SPE

2625
Art Unit

Staple Here Only!

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,095,521 B2

DATED : August 22, 2006

INVENTOR(S) : Takehiro Yoshida

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

COLUMN 5:
Line 38, "In" should read -- in --.

COLUMN 6:
Line 26, "an" should read -- and --; OK
Line 48, "not only the processing of" should read -- not only processes the process of --.

COLUMN 8:
Line 42, "plurality" should read -- plurality of --.

COLUMN 9:
Line 53, "to" should read -- to the --; and OK
Line 66, "identical of" should read -- identical --.

COLUMN 10:
Line 50, "information identical" should read -- information having an identical --.

COLUMN 11:
Line 2, delete "call";
Line 3, "the" should read -- the pieces of --;
Line 41, "extracted;" should read --extracted information; --; and
Line 66, "of" (first occurrence) should read -- of extracting --.

COLUMN 12:
Line 62, "the" (first occurrence) should read -- the merged --; and
Line 66, "the" should read -- the pieces of --.

MAILING ADDRESS OF SENDER:
FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

PATENT NO. 7,095,521 B2

No. of add'l. copies @ 30¢ per page

Form PTO 1050 (Rev. 3-82)
125495 (Form#30)

FEB 15 2007

Staple Here Only!

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,095,521 B2

DATED : August 22, 2006

INVENTOR(S) : Takehiro Yoshida

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

COLUMN 14:

Line 5, "batch transmitting" should read -- batch-transmitting --.

MAILING ADDRESS OF SENDER:

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

PATENT NO. 7,095,521 B2

No. of add'l. copies @ 30¢ per page

FEB 15 2007

Form PTO 1050 (Rev. 3-82)
125495 (Form#30)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/30/04

Paper No.: _____

TO SPE OF : ART UNIT 1762

SUBJECT : Request for Certificate of Correction on Patent No.: 6,716,489 / 10043148

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

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

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

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

References were not considered.

TIMOTHY MEEKS
SUPERVISORY PATENT EXAMINER

SPE

1762

Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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

Date : September 10, 2007

Patent No. :6,716,489
Inventor(s) :Yasuyuki MIYAOKA
Issued :April 6, 2004
Title : METHOD FOR ANNEALING DOMAIN WALL DISPLACEMENT TYPE
: MAGNETO-OPTICAL RECORDING MEDIUM

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.

Review of the application file reveals that correspondence to support entry of reference data as noted in applicants' request for correction is not found in the records of the Patent and Trademark office. Accordingly, a signed and dated copy of applicants 1449 or PTO-892 reflecting the requested references considered by the examiner is required for further consideration. If omitted references were submitted by applicant, a copy of the post card receipt obtained from this office should be included.

In view of of the foregoing, applicants request is hereby denied. Telephone inquiries should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

for Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 305-8228 or (703) 305-9380 Ext. 123

Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, New York 10112-3801

CBN/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/28/08

TO SPE OF : ART UNIT 1700

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/043148** Patent No.: **6716489**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

1792
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,241	01/14/2002	Matthias Bratz	42044 Cont.	1890

26474 7590 12/30/2009
NOVAK DRUCE DELUCA + QUIGG LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON, DC 20005

EXAMINER
QAZI, SABIHA NAIM

ART UNIT	PAPER NUMBER
1612	

MAIL DATE	DELIVERY MODE
12/30/2009	PAPER

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

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 3 0 2009

NOVAK DRUCE DELUCA + QUIGG LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON DC 20005

In re Application of:	:
Bratz et al.	:
Serial No.: 10/043,241	: PETITION DECISION
Filed: January 14, 2002	:
Attorney Docket No.: **42044 Cont.**	:

This is in response to the petition under 37 CFR § 1.181, filed December 22, 2009, requesting that the finality of the Office action of November 23, 2009 be withdrawn and a new Office action be issued based on the totality of the record.

BACKGROUND

On February 12, 2009, the examiner mailed a final Office action setting a three month statutory limit for reply. The examiner noted that claims 10-17, 19, 20 and 22-31 were pending and claims 10-17, 19, 20 and 22-31 were rejected. Claims 10-17 and 19-31 were rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement. Claims 10-17 and 19-31 were rejected under 35 USC 112, first paragraph, as being enabling for a specific solid sulfonylurea herbicide but not all. Claims 10-17 and 19-31 were rejected under 35 USC 103 (a) as being unpatentable over Kocur et al, Dupont and Malik et al.

On July 10, 2009, applicants filed arguments traversing the examiner's rejections instituted in the non-final Office action of February 12, 2009. Applicants also submitted a substitute specification.

On November 23, 2009, the examiner mailed a final Office action setting a three month statutory limit for reply. The examiner noted that claims 10-17, 19, 20 and 22-31 were pending and claims 10-17, 19, 20 and 22-31 were rejected. Claims 10-17 and 19-31 were again rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement. Claims 10-17 and 19-31 were again rejected under 35 USC 112, first paragraph, as being enabling for a specific solid sulfonylurea herbicide but not all. Claims 10-17 and 19-31 were again rejected under 35 USC 103 (a) as being unpatentable over Kocur et al, Dupont and Malik et al.

On December 22, 2009, applicants submitted the petition under consideration herein.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition, applicants "respectfully petition that the finality of the Office action mailed on November 23, 2009, be withdrawn, and that the Examiner be required to issue an Office action which is based on the totality of the record, i.e., which duly addresses the presentations and arguments made by applicants in their paper of July 10, 2009, including such information as may be useful to applicants to judge the propriety of continuing the prosecution of the application." Specifically, applicants argue "the Office action of November 23, 2009, does not acknowledge, or comment on, the substitute specification and applicants' detailed comments regarding the specification objections which were submitted with applicants' reply of July 10, 2009; the Office action of November 23, 2009, does not acknowledge, or comment on, applicants' detailed comments regarding the written description and the enablement requirement of 35 U.S.C. §112, paragraph 1, which were submitted with applicants' reply of July 10, 2009; and the Office action of November 23, 2009, does not acknowledge, or comment on, applicants' supplemental comments regarding the rejection under 35 U.S.C. §103(a), which were submitted with applicants' reply of July 10, 2009."

Applicants' arguments are found persuasive that the Office action of November 23, 2009 is not based on the totality of the record because the examiner failed to sufficiently address all arguments presented by applicants. Accordingly, the final Office action of November 23, 2009 is considered improper and will be withdrawn.

DECISION

The petition is subsequently **GRANTED**.

The final Office action of November 23, 2009 is hereby vacated. The application is being returned to the examiner to issue a new and complete final Office action with a reset period for reply which completely addresses the arguments set forth by applicants in the response of July 10, 2009.

Should there be any questions about this decision please contact Quality Assurance Specialist Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Remy Yucel
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

DEC 13 2004 rvk

Mailed:_____ Paper Number: ____

In re application of :
Satoru Katagami et al : DECISION ON
Serial No. 10/043,244 : PETITION
Filed: January 14, 2002 :
For: APPARATUS AND METHOD FOR PRODUCING COLOR FILTERS BY DISCHARGING MATERIAL :

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT – OFFICE ACTION NOT RECEIVED, filed August 30, 2004. The petition requests withdrawal of any holding of abandonment which may be issued for failure to timely file a proper response to the Office letter (i.e. Restriction Requirement) dated February 20, 2004. The petitioner asserts that the Office letter of February 20, 2004 was not received by applicants. No actual Notice of Abandonment has as yet been mailed.

DECISION

The instant request is accepted as a petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

The evidence presented is sufficient to establish that the Office letter of February 20, 2004 was not received by petitioner. The evidence provided includes a statement by the petitioner that the Office letter of February 20, 2004 was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office letter mailed February 20, 2004 was not received. Also provided are a copy of a listing of all the responses in the Law firm with a due date of March 20, 2004 (Appendix A); a copy of a computerized docket sheet (Appendix B)) showing the docketed due dates for the instant application (Attorney Docket Number 111373); and a photocopy of the file jacket for the instant application (Appendix C); where the Restriction Requirement dated

February 20, 2004 would have been posted in the above three docket records had it been timely received.

Therefore, the application shall be forwarded to the examiner for prompt remailing of the above noted Restriction Requirement of February 20, 2004 to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

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

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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ALFRED A. STADNICKI
ANTONELLI TERRY STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209

COPY MAILED

SEP 07 2006

OFFICE OF PETITIONS

In re Application of	:	
David Lee Garrison et al	:	
Application No. 10/043,247	:	DECISION ON PETITION
Filed: January 14, 2002	:	TO WITHDRAW
Attorney Docket No. 23952-0059	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 24, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Alfred A. Stadnicki has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record remains unchanged, which is the first address indicated below.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: Sutherland, Asbill, & Brennan, LLP
999 Peachtree Street, N.E.
Atlanta, GA 30309

cc: Mr. Hans Dreyer
Director, Intellectual Property
CheckFree Corporation
6000 Perimeter Drive
Dublin, OH 43017-3233

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

VOLENTINE FRANCOS, PLLC
SUITE 150
12200 SUNRISE VALLEY DRIVE
RESTON VA 20191

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AUG 0 1 2002
OFFICE OF PETITIONS

In re Application of :
Lea et al. :
Application No. 10/043,265 : ON PETITION
Filed: 14 January, 2002 :
Attorney Docket No. WLJ.056CIP :

This is a decision on the petition under 37 CFR 1.182, filed on 9 April, 2002, to change the order of the names of the inventors.

The petition is **dismissed as moot**.

37 CFR 1.41(a)(1) now defines the inventorship of a non-provisional application as that inventorship set forth in the oath or declaration filed to comply with the requirements of 37 CFR 1.63.

As the application was not filed with an executed oath or declaration, and the executed declaration filed on 9 April, 2002, correctly lists the desired order of inventors, no petition under 37 CFR 1.182 is necessary. The $130.00 petition fee is therefore unnecessary and will be refunded to counsel's Deposit Account, No. 50-0238.

The application file is being forwarded to Office of Application Branch Data Input to correct the order of inventorship in accordance with the declaration filed on 9 April, 2002. Thereafter, the application will be forwarded to Initial Patent Examination Division for further processing.

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

D Wood

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

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

REQUEST FOR **PATENT** FEE REFUND

1 Date of Request: 7-30-02 | 2 Serial/Patent # 10/043,265

	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	4-9-02	$ 130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 50--0238

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

DISMISSED AS MOOT

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: D WOOD TITLE: PET ATTY

SIGNATURE: [illegible] PHONE: 308-6918

OFFICE: PETITIONS

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Kelley DATE: 8/1/02

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

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Leslie Michael Lea et al.
Application No. 10/043,265
Filed: January 14, 2002
Attorney Docket No. WLJ/056CIP

This is a decision on the petition filed October 12, 2007 under 37 CFR 1.137 (b) to revive the above-identified application.

The petition is **GRANTED**.

In response to a Final Office Action mailed March 13, 2006, a Notice of Appeal was filed September 13, 2006 with a three month extension of time. The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed September 13, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on November 14, 2006. See MPEP 1215.04.

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

The fees for the petition to revive ($770.00) and the RCE ($405.00) have been charged to Deposit Account No. 50-0238 as authorized.

The request for continued examination (RCE) of this application under 37 CFR 1.114 is being forwarded to Technology Center 1792 for processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EDELL, SHAPIRO, FINNAN & LYTLE, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

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NOV 23 2004

OFFICE OF PETITIONS

In re Application of : Arnold Wilkie, et. al. :
Application No. 10/043,288 : NOTICE
Filed: January 14, 2002 :
Attorney Docket No. 0818.0125C :

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 being referred to Technology Center Art Unit 1734, for further processing.

Inquiries related to this communication 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

OIPE JC88
OCT 19 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DIVISION

Appl. No.	:	10/043,288
Applicant	:	Arnold Wilkie et al.
Filed	:	January 14, 2002
TC/A.U.	:	1734
Examiner	:	Mayes, M.
Confirmation No.	:	5437
Docket No.	:	0818.0125C
Customer No.	:	27896
Title	:	METHOD AND APPARATUS FOR PRODUCING POLYMER FIBERS AND FABRICS INCLUDING MULTIPLE POLYMER COMPONENTS IN A CLOSED SYSTEM

2004 OCT 20 PM 12:5!
RECEIVED
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OFFICE OF PETITIONS

10/21/2004 DALLEN 00000007 10043288
01 FC:1461 540.00 OP

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

CORRECTING ERROR IN SMALL ENTITY STATUS AND CALCULATION AND PAYMENT OF DEFICIENCIES OWED UNDER 37 C.F.R. § 1.28(c)

Sir:

Applicants, through their representative, had in good faith but erroneously stated that the Applicants were entitled to small entity status at the time of filing the subject application. Applicants respectfully request correction to large entity status. In complying with the requirements of 37 C.F.R. §§ 1.28(c)(1) and (c)(2), an itemization of deficiency amounts is provided below, showing the item (e.g., filing fee), the date the item was paid, the current large entity amount, the deficiency amount (i.e., the large entity fee minus the small entity fee actually paid), and a total deficiency amount due (i.e., the sum of all deficiency amounts for the items).

Item	Date Item was paid	Payment amount	Current large entity amount	Deficiency
1. Filing fee with surcharge	March 15, 2002	$435	$920	$485
2. One month petition for extension of time for responding to Restriction	April 8, 2004	$55	$110	$55
		Total Deficiency Amount Owed =		$540

DIVISION

U.S. Patent Application No. 10/043,288

2004 OCT 20 PM 12: 51

A check in the amount of $540 is enclosed for payment of the total deficiency amount owed. Any further deficiencies that the Office may determine are due in changing the Applicants to large entity status may be charged to Deposit Account No. 05-0460.

If there are any questions regarding the calculation of the total deficiency amount, the undersigned may be contacted at the number provided below.

Respectfully submitted,

Andrew J. Aldag

Andrew J. Aldag
Registration No. 40,483

EDELL, SHAPIRO & FINNAN, LLC
1901 Research Boulevard, Suite 400
Rockville, Maryland 20850-3164
(301) 424-3640

Hand Delivered on: October 19, 2004

OIPE JC174
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PATENT & TRADEMARK OFFICE

1636

PATENT
1422-0560P

#11

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant:	Iwao KATSUYAMA	Conf.:	6348
Appl. No.:	10/043,366	Group:	1636
Filed:	January 10, 2002	Examiner:	D. M. Sullivan
For:	EXPERIMENTAL ANIMALS FOR EVALUATION OF THERAPEUTIC EFFECTS ON CORNEAL EPITHELIAL DAMAGES		

RECEIVED
JAN 0 8 2003
TECH CENTER 1600/2900

PETITION UNDER 37 C.F.R § 1.84(a)(2)
TO ACCEPT COLOR DRAWINGS AND/OR PHOTOGRAPHS

Assistant Commissioner for Patents
Washington, DC 20231

January 3, 2003

Sir:

Applicant hereby petitions that color drawings under 37 C.F.R. § 1.84(a)(2) be accepted in the above-identified application.

Color drawings are necessary as they are the only practical medium by which the subject matter of the present application can be disclosed.

1. Fee Payment (37 C.F.R. § 1.17(h)):

☒ A check in the amount of $130.00 is enclosed.

☐ Please charge Deposit Account No. 02-2448 in the amount of $0.00. This form is submitted in triplicate.

2. Color Drawings

Three (3) sets of color drawings are provided, and are believed to be of sufficient quality that all details

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will be reproducible in black and white in the printed patent.

3. Amendment to the Specification

An Amendment is being submitted concurrently herewith, providing reference to the color drawings in the first paragraph of the brief description of the drawings.

It is noted that black and white photocopies of any color drawing or photograph are no longer required under 37 CFR 1.84(a)(2)(iii) as of October 1, 2001.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By #42,874
for Gerald M. Murphy, Jr., #28,977

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

GMM/CAM/gh
1422-0560P

(Rev. 11/26/02)

Fig. 7

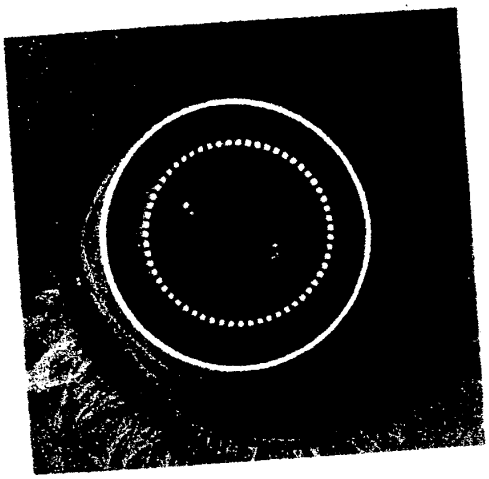


Fig. 8

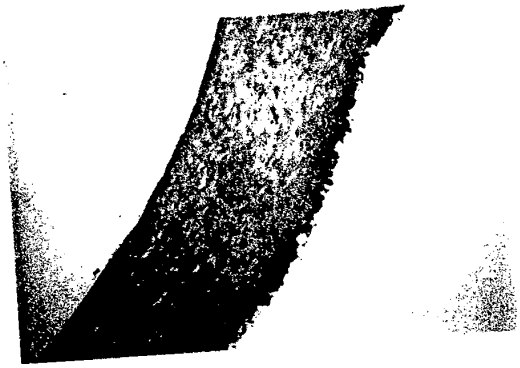


Fig. 9

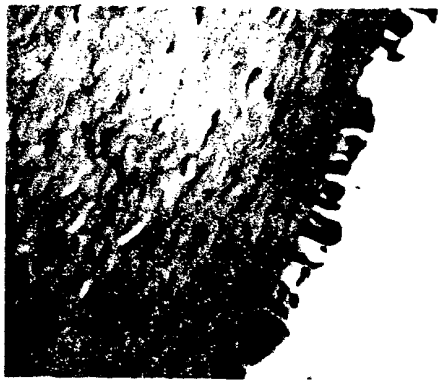


Fig. 10

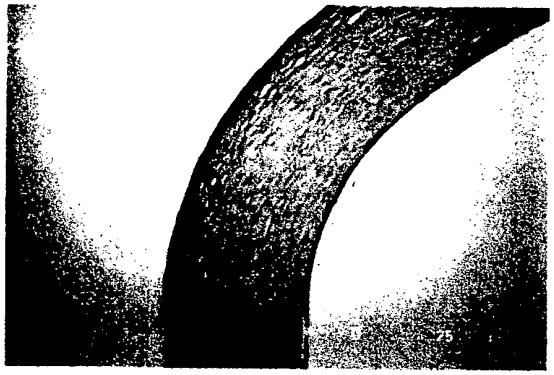
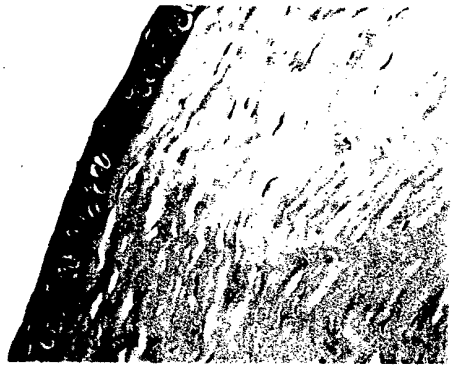


Fig. 11



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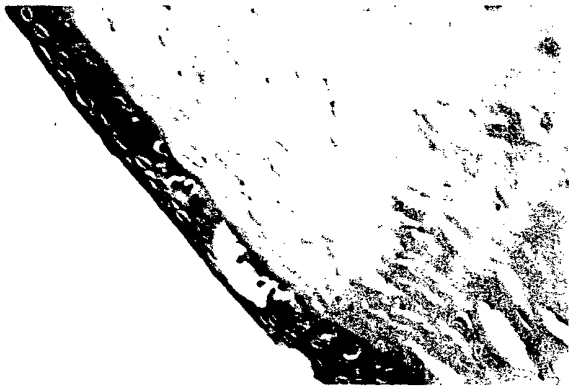
01/03/03

Fig. 15

Fig. 16

Fig. 17



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P.O. BOX 747
FALLS CHURCH VA 22040-0747

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JUN 0 3 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Iwao Katsuyama :
Application No. 10/043,366 :
Filed: January 10, 2002 :
Attorney Docket No. KUP-D0135 :

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 2, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 1636 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
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Paper No. 10

COOLEY GODWARD LLP
ATTN: PATENT GROUP
1195 FREEDOM DRIVE SUITE 1700
ONE FREEDOM SQUARE - RESTON TOWN CENTER
RESTON VA 20190-5061

COPY MAILED

SEP 0 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Rosenberg, et al.	:	
Application No. 10/043,374	:	DECISION ON PETITION
Filed: January 8, 2002	:	
Attorney Dócket No. IMM1P007D.US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 22, 2003, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of international application no. PCT/US94/07851 and nonprovisional application no. 08/092,974.

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(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 was filed on January 8, 2002, and was pending at the time of filing of the instant petition. Reference to the prior filed nonprovisional application and the international 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).

Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §120 to the prior-filed nonprovisional application and the international 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(s) 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(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. §120 and 37 CFR 1.78 must be met. Accordingly, the examiner will, in due course, consider these benefit claims and determine whether the instant application is entitled to the benefit of the earlier filing date.

As the petition fee at the time of filing the petition was $1,300, the $20 difference between the fee submitted and the fee due has been charged to Deposit Account No. 50-1283, as authorized.

This application is being forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Charles Pearson
Director
Office of Petitions

Enc: Corrected Filing Receipt (2 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Michael O. Scheinberg
P.O. Box 164140
Austin, TX 78716-4140

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SEP 10 2004

OFFICE OF PETITIONS

In re Application of :
Jay Martijn Krans :
Application No. 10/043,389 :
Filed: October 26, 2001 :
Attorney Docket No. PHNL000578 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on July 26, 2004, to revive the above-identified application.

The petition is **dismissed**.

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

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lack items (1) and (2) above.

As to items (1) and (2), the Fee Transmittal filed with the instant petition authorizes the Office to charge $1,330 for the petition to revive fee, and $330 for the filing of the Notice of Appeal. However, petitioner's deposit account contains insufficient funds. Therefore, revival of the instant application cannot occur until such fees are 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 Window located at:
U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

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

Any questions concerning this matter may be directed to the undersigned at (703) 308-6711[1].

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

[1]After September 27, 2004, the telephone number will be (571) 272-3226.

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P.O. Box 1450
Alexandria, VA 22313-1450
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Michael O. Scheinberg
P.O. Box 164140
Austin, TX 78716-4140

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JAN 2 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Jay Martijn Krans, et. al.	:	
Application No. 10/043,389	:	ON PETITION
Filed: October 26, 2001	:	
Attorney Docket No. PHNL000578	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 17, 2004, to revive the above-identified application.

The Office hereby acknowledges receipt of the required reply, in the form of, $1,330 for the petition to revive fee and $300 for the Notice of Appeal fee. Therefore, the petition is **GRANTED**.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The application file is being referred to Technology Center Art Unit 2881, to await the filing of an Appeal Brief in triplicate.

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

#5

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

PATENT & TRADEMARK OFFICE
MAILED
AUG 28 2002
LICENSING & REVIEW

Senniger Powers Leavitt and Roedel
One Metropolitan Square
16th Floor
St. Louis, Mo. 63102

In re Application of:
Peter J. McNamara:
For Serial No. 10/043,394

DECISION ON
REQUEST FOR
RECONSIDERATION

Filed: January 10, 2002

For: **POLYMER BRUSHES FOR IMMOBILIZING MOLECULES TO A SURFACE OR SUBSTRATE HAVING IMPROVED STABILITY**

This is a decision on the REQUEST FOR RECONSIDERATION filed June 12, 2002, responding to the communication (FORM PTOL-456) mailed April 29, 2002.

The request has been **GRANTED**. No further action regarding this matter is required

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHARMASSON, BUCHACA & LEACH, LLP
1545 HOTEL CIRCLE SOUTH
SUITE 150
SAN DIEGO, CA 92108-3426

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APR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Angela M. Petroskey	:	
Application No. 10/043,396	:	DECISION ON PETITION
Filed: January 10, 2002	:	
Attorney Docket No. 070065	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 27, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 27, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 28, 2005.

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

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 3 ½ years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on October 27, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Vincent Ilagan of Artz & Artz, PC was counsel of record at the time of abandonment, the representatives from Artz & Arts, PC should explain why this application became abandoned while it was under their control and what efforts were made to further reply and with whom this matter was discussed outside of the firm and the applicant Angela Petroskey. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from all

responsible person(s), involved with this application at the time of abandonment. Statements are required from any and all persons then at Artz & Artz, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 3 ½ years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Artz & Artz, PC and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

(A) the date that the applicant first became aware of the abandonment of the application; and
(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any renewed petition may be addressed as follows:

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

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 29, 2006

TO SPE OF : ART UNIT 1745

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/043404 patent No.: 6,824,905

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: CHANGES ARE EDITORIAL ONLY.

SPE

1745

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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OFFICE OF PETITIONS

MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

In re Application of

MILOUSHEV, Vladimir I. et al.
Application No. 10/043,413
Filed: January 10, 2002
Attorney Docket No. **6097-0003-US**

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 02, 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 Gary S. Williams on behalf of all attorneys of record. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **VLADIMIR I. MILOUSHEV**
30802 CALLE BARBOSA
LAGUNA NIGUEL, CA 92677

cc: **BROMBERG & SUNSTEIN LLP**
125 SUMMER STREET
BOSTON, MA 02110-1618

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Broomberg & Sunstein, LLP
125 Summer Street
Boston, MA 02110-1618

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APR 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Vladimir I. Miloushev et al.	:	
Application No. 10/043,413	:	DECISION ON PETITION
Filed: January 10, 2002	:	
Attorney Docket No. 3193/102	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

A review of the record discloses that the above-identified application became abandoned for failure to timely pay the issue and publication fees on or before November 16, 2007. The application is being revived for consideration of the Request for Continued Examination and submission under 37 CFR 1.114. However, 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. Also if an application is abandoned for failure to pay the publication fee, the require reply must include payment of the publication fee. Therefore, $720 for payment of the issue fee and $300 for payment of the publication fee are being charged to counsel's deposit account, as authorized.

The application is revived for consideration of the RCE filed January 17, 2008.

Petitioner is advised that the issue fee paid in the above-identified application cannot be refunded. However, if the above application is again allowed, petitioner may request that the issue fee paid on April 9, 2008 be applied towards the issue fee required by the new Notice of Allowance and Fee(s) Due.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720.00 and the publication fee of $300, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being forwarded to Technology Center Art Unit 2154, for further processing.

Andrea Smith
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 5, 2007

TO SPE OF : ART UNIT 3711

SUBJECT : Request for Certificate of Correction for Appl. No. 10/043421 patent No.: 7004852

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Sebastiano Passaniti
Primary Examiner

EUGENE KIM
SUPERVISORY PATENT EXAMINER

3711
Art Unit

ATTORNEY DOCKET NO.
DOG 2410000

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Number 7,004,852 B2	§	Serial Number: 10/043,421
	§	
Issued: Feb. 28, 2006	§	Filed: Jan. 10, 2002
	§	
Name of Patentee: David P. Billings	§	
	§	
Title: CUSTOMIZABLE CENTER-OF-GRAVITY GOLF CLUB HEAD	§	

CHANGES APPROVED 03/07/2007 (SP)

Attention: Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT
(37 C.F.R. 1.322 AND 1.323)

Attached herewith is Form PTO/SB/44 with at least one copy being suitable for printing.

The exact location where the errors occur in the patent and where the matter appears correctly in the application file are:

Patent	Application File
Front page, list of References Cited	Office Action dated Nov. 18, 2004, Page 3, line 9
Insert --5,184,823 A * 2/1993 Desbiolles-- after "Hsien"; and	
Insert --5,447,309 A * 9/1995 Vincent-- after "Wargo".	

The above-referenced U.S. Patents by Desbiolles and by Vincent were cited by the Examiner in the Office Action dated Nov. 18, 2004, but were not listed on the corresponding Notice

of References Cited. The patent numbers were obtained in a telephone call to the Examiner and mentioned in the subsequent Response filed April 18, 2005.

Following are typographical errors made in the specification, and in the patent, for which Patentee wishes to make corrections:

Patent	Application File
Col. 3, line 9	Specification page 6, line 4

delete "heal" and insert --heel--.

The Commissioner is hereby authorized to charge the amount of $100.00 for the correction fee to Deposit Account No. 50-0506 of CARR LLP. In the event that amount is not correct, the Commissioner is authorized to debit or credit the required fee to Deposit Account No. 50-0506 of CARR LLP.

Please send the Certificate of Correction to:

Gregory W. Carr
CARR LLP
670 Founders Square
900 Jackson Street
Dallas, Texas 75202

Assignee: DOGLEG RIGHT CORPORATION

Respectfully submitted,

CARR LLP

Dated: January 31, 2007

/Gregory W. Carr/
Gregory W. Carr
Reg. No. 31,093

CARR LLP
670 Founders Square
900 Jackson Street
Dallas, Texas 75202
Telephone: (214) 760-3030
Fax: (214) 760-3003

/X/ Assignment recorded on 01/10/2002
Reel/Frame 012489/0361

/ / Recordal of assignment attached

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. : 7,004,852 B2

APPLICATION NO.: 10/043,421

ISSUE DATE : Feb. 28, 2006

INVENTOR(S) : David P. Billings

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

On the front page, in the list of References Cited, after "5,082,278 A * 1/1992 Hsien" insert --5,184,823 A * 2/1993 Desbiolles-- and; after "5,385,348 A * 1/1995 Wargo" insert --5,447,309 A * 9/1995 Vincent--.

Column 3, line 9, "heal" should be changed to --heel--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

CARR LLP
670 Founders Square, 900 Jackson Street
Dallas, Texas 75202

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.

Privacy Act Statement

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

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

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

#10

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LICENSING & REVIEW

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

IN RE:	Le, et al	
SERIAL NO.	10/043,432	:DECISION ON REQUEST FOR
FILED:	January 10, 2002	:RECONSIDERATION FOR A
DOCKET #	0975.1005-017	: STATEMENT UNDER 42USC2182

FOR: Methods of Treating Cachexia with Chimeric Anti-TNF Antibodies

This is in response to the petition filed on September 20, 2002 for reconsideration of a statement pursuant to 42 U.S.C 2182.

The petition is Granted.

The Commissioner letter mailed on September 6, 2002 is hereby vacated.

Any question concerning this decision should be referred to Michael Carone at 703 306-4198.

Michael J. Carone
Acting Directory, Licensing and Review
Supervisory Patent Examiner Art Unit 3641

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

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Hamilton, Brook, smith & Reynolds, PC
530 Virginia Road
P. O. Box 9133
Concord, MA 01742-9133

In re Application of:
Junming Le et al:
For Serial No. 10/043,432

DECISION ON
REQUEST FOR
RECONSIDERATION

Filed: January 10, 2002
For: **METHOD OF TREATING CACHEVIA WITH CHIMERIC ANTI-TNF ANTIBODIES**

This is a decision on the REQUEST FOR RECONSIDERATION filed June 26, 2002, responding to the communication (FORM PTOL-456) mailed May 21, 2002.

The request has been **DENIED** to the extent indicated below.

42 U.S.C. 2182 states in part "... useful in the production **or utilization of special nuclear material or atomic energy**". A review of the application file history reveals among other things the use of a radioactive isotope "^{131}I " as disclosed in at least page 38 of the instant specification. Therefore under the directions from the Department of Energy (DOE) this application has been made available to them under 42 U.S.C. 2182 since the following subject matter relates to at least one of the following:

G. Materials, apparatus and methods concerning isotope and/or radioactive source technology including those utilizing (including responsive to) radioactive sources in:

a. Life Sciences such as medicine (diagnostic and therapeutic), ecology, disease and pest control, animal husbandry, etc.

b. Industrial processes such as food processing, sterilization, polymer production, etc.

c. Investigations of the environment or the earth

H. Instruments employing a radioactive source and/or radioactivity detector in the operation thereof.

Applicant is reminded that a response is due within forty-five days of the mailing date of the communication (FORM PTOL-456). The communication having been mailed May 21, 2002.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PENNSYLVANIA STATE UNIVERSITY
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

COPY MAILED
JAN 13 2010

In re Application of	:	
Costas D. Maranas et al	:	
Application No. 10/043,440	:	DECISION ON PETITION
Filed: January 10, 2002	:	UNDER 37 CFR 1.313(c)(1)
Attorney Docket No. P05468US1	:	

This is a decision on the petition under 37 CFR 1.313(c), filed January 11, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted.

Petitioner should have filed a Request for Continued Examination (RCE) and Information Disclosure Statement with the above petition, which would have been proper.

Additionally, the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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

/KOC/
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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ATTN: PENNSYLVANIA STATE UNIVERSITY
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

MAILED

JAN 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Costas D. Maranas et al	:	
Application No. 10/043,440	:	DECISION GRANTING PETITION
Filed: January 10, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P05468US1	:	

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed January 11, 2010, 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 3, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1631 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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Hamilton, Brook, smith & Reynolds, PC
530 Virginia Road
P. O. Box 9133
Concord, MA 01742-9133

In re Application of:
JunningLe et al:
For Serial No. 10/043,450

DECISION ON
REQUEST FOR
RECONSIDERATION

Filed: January 10, 2002
For: **METHOD OF TREATING INFECTIONS WITH CHIMERIC ANTI-TNF ANTIBODIES**

This is a decision on the REQUEST FOR RECONSIDERATION filed July 16, 2002, responding to the communication (FORM PTOL-456) mailed May 21, 2002.

The request has been **DENIED** to the extent indicated below.

42 U.S.C. 2182 states in part "... useful in the production **or utilization of special nuclear material or atomic energy".** A review of the application file history reveals among other things the use of a radioactive isotope "^{33}P " as disclosed in at least page 75 of the instant specification. Therefore under the directions from the Department of Energy (DOE) this application has been made available to them under 42 U.S.C. 2182 since the following subject matter relates to at least one of the following:

G. Materials, apparatus and methods concerning isotope and/or radioactive source technology including those utilizing (including responsive to) radioactive sources in:

a. Life Sciences such as medicine (diagnostic and therapeutic), ecology, disease and pest control, animal husbandry, etc.

b. Industrial processes such as food processing, sterilization, polymer production, etc.

c. Investigations of the environment or the earth

H. Instruments employing a radioactive source and/or radioactivity detector in the operation thereof.

Applicant is reminded that a response is due within forty-five days of the mailing date of the communication (FORM PTOL-456). The communication having been mailed May 21, 2002.

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

#9

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

IN RE:	Le, et al	
SERIAL NO.	10/043,450	:DECISION ON REQUEST FOR
FILED:	January 10, 2002	:RECONSIDERATION FOR A
DOCKET #	0975.1005-015	: STATEMENT UNDER 42USC2182

FOR: Methods of Treating Infections with Chimeric Anti-TNF Antibodies

This is in response to the petition filed on September 20, 2002 for reconsideration of a statement pursuant to 42 U.S.C 2182.

The petition is Granted.

The Commissioner letter mailed on September 6, 2002 is hereby vacated.

Any question concerning this decision should be referred to Michael Carone at 703 306-4198.

Michael J. Carone
Acting Directory, Licensing and Review
Supervisory Patent Examiner Art Unit 3641

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MAR 04 2010

OFFICE OF PETITIONS

DARBY & DARBY P.C.
805 THIRD AVENUE
NEW YORK, NY 10022

In re Patent No. 6,972,181	:	
Issue Date: December 6, 2005	:	
Application No. 10/043,502	:	NOTICE
Filed: January 9, 2002	:	
Attorney Docket No. 2420/1I129US2		

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

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

Kirschstein, Ottinger, Israel & Schiffmiller, P.C.
489 Fifth Avenue
New York NY 10017-6105

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JUL 22 2002

OFFICE OF PETITIONS

In re Application of Mulla et al. Application No. 10/043,545 Filed: January 10, 2002 Attorney Docket No. 482XB	DECISION GRANTING PETITION

This is a decision on the petition filed April 17, 2002 (certificate of mailing April 10, 2002), requesting that pages 25 and 28 of the specification be accorded a filing date of January 10, 2002, as part of the original disclosure.

On January 10, 2002, applicants filed the above-identified application. On February 14, 2002, the Office of Initial Patent Examination mailed a "Notice to File Corrected Application Papers" (Notice), stating that the application had been accorded a filing date of January 10, 2002, and requiring applicants to submit a substitute specification in compliance with 37 CFR 1.52. Additionally, the Notice advised applicants that pages 25 and 28 of the specification appeared to have been omitted.

In response, on April 17, 2002 (certificate of mailing April 10, 2002), applicants filed, inter alia, the present petition, a substitute specification, consisting of 29 pages, and an authorization to charge the Deposit Account for the petition fee. The petition was accompanied by a copy of applicants' postcard receipt acknowledging receipt of 29 pages of specification on January 10, 2002.

In the present petition, applicants requested that the application, including pages 25 and 28 of the specification, be accorded a filing date of January 10, 2002, and the petition fee be refunded.

Upon review of the record, pages 25 and 28 of the specification deposited on January 10, 2002, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on January 10, 2002, included pages 25 and 28, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including pages 25 and 28 of the specification, was complete on filing and entitled to a filing date of January 10, 2002.

Accordingly, the petition is granted.

The requirement for the omitted items was sent in error and is hereby vacated. Accordingly, the petition fee is unnecessary and will be credited to Deposit Account No. 11-1145.

The application file is being forwarded to the Office of Initial Patent Examination for review of the substitute specification and for further processing with a filing date of January 10, 2002, using the substitute specification submitted on April 17, 2002.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

HICKMAN PALERMO TRUONG & BECKER LLP
1600 WILLOW STREET
SAN JOSE CA 95125

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SEP 2 4 2002

OFFICE OF PETITIONS

In re Application of E. Michael Lunsford Application No. 10/043,552 Filed: January 8, 2002 Attorney Docket No. 1662/466072	DECISION ON PETITION

This is a decision on the petition filed July 3, 2002, to accord the above-identified application a filing date of January 8, 2002, with pages 37 and 38 of the specification as a part of the original disclosure.

Application papers in the above-identified application were filed on January 8, 2002. However, on February 20, 2002, the Initial Patent Examination Division mailed a "Notice of Omitted Items in a Nonprovisional Application," notifying applicant that the application had been accorded a filing date; however, pages 37 and 38 of the specification appeared to have been omitted.

In response, on July 3, 2002, applicant filed the present petition to accord a filing date of January 8, 2002, with pages 37 and 38 as part of the original disclosure. Applicant asserted that pages 37 and 38 were with the application as originally filed on January 8, 2002. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing "Copy of parent specification (40 pgs)" as enclosed, bearing a United States Patent and Trademark Office date-stamp of January 8, 2002, and lacking any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

In view thereof, the petition is **GRANTED**.

The Notice of Omitted Items is hereby **VACATED**.

Given the basis for granting the petition, the $130 petition fee was not charged to Deposit Account No. 50-1302.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of January 8, 2002, using the application papers received in the Office on that date and pages 37 and 38 of the specification resupplied on petition filed July 3, 2002. Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 703-305-0272.

P Shirene Willis for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

CLIFFORD CHANCE US LLP
200 PARK AVENUE
NEW YORK NY 10166

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NOV 14 2002

OFFICE OF PETITIONS

In re Application of
John K. Brixius, James G. Schaadd, David W. George,
and Robert J. Dent
Application No. 10/043,554
Filed: January 11, 2002
Attorney Docket No. 3499-097
Title: METHOD AND SYSTEM FOR VENTURE
CAPITALIST DISTRIBUTION OF STOCK

DECISION ON PETITION

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed August 19, 2002[2].

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 January 11, 2002, the application was deposited, identifying John K. Brixius, James G. Schaadd, David W. George, and Robert J. Dent as joint inventors. The application was deposited without a fully executed oath or declaration. On February 11, 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 $130.00 were required. This Notice set a two-month period for reply.

---

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

2 The petition contains a certificate of mailing dated August 8, 2002.

With the instant petition, the petitioner has included the filing fee for the petition, the $65.00 surcharge, a four month extension of time to make timely this reply, a declaration[3] executed by inventors Brixius, George, and Dent, and a statement from an employee of the assignee.

Petitioner has met requirements (1), (2), (3) and (6) of 37 C.F.R. §1.47(a) above.

Regarding the fourth requirement, petitioner has not shown that a *complete* copy of the application was sent to the non-signing inventor. The statement of Ms. Carbone establishes that a copy of the declaration and power of attorney were sent to non-signing inventor Schaad[4]. As copies of the specification, claims, and drawings were not mailed to non-signing inventor Schaad, peitioner has not met this requirement.

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[5].

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].

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

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].

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3 It is noted that the unexecuted declaration submitted with the application upon filing listed 9 joint inventors, whereas the declaration submitted with the instant petition lists only 4. As inventorship is set by the first executed declaration, inventors Bell, Weber, Shokina, Detwiler, and Dodwell are not considered joint inventors. If petitioners wish to add them, a petition under 37 CFR 1.48 will need to be filed.

4 The statement of facts states that a copy of this request was included as an attachment to the petition, but no such attachment has been located in the file.

5 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

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

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

for D Wood

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

CLIFFORD CHANCE US LLP
200 PARK AVENUE
NEW YORK NY 10166

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JAN 13 2003

OFFICE OF PETITIONS

In re Application of
John K. Brixius, James G. Schaadd, David W. George, and Robert J. Dent
Application No. 10/043,554
Filed: January 11, 2002
Attorney Docket No. 3499-097
Title: METHOD AND SYSTEM FOR VENTURE CAPITALIST DISTRIBUTION OF STOCK

DECISION NOTING JOINDER AND DISMISSING PETITION UNDER 37 C.F.R. §1.47(a) AS MOOT

This is in response to the renewed petition under 37 C.F.R. 1.47(a)[1], filed December 17, 2002.

The renewed petition is **DISMISSED AS MOOT**.

On January 11, 2002, the application was deposited, identifying John K. Brixius, James G. Schaadd, David W. George, and Robert J. Dent as joint inventors. The application was deposited without a fully executed oath or declaration. On February 11, 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 $130.00 were required. This Notice set a two-month period for reply.

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

In reply, applicant filed the original petition (and fee) on August 19, 2002. In a decision mailed on November 14, 2002, the original petition was dismissed for failure to submit proof that the non-signing inventor was provided with the opportunity to review complete copies of the application.

With the instant petition, a fully executed declaration was filed, obviating the need for a petition. As such, this renewed petition is dismissed as moot.

After this decision is mailed, the application will be forwarded to Technology Center 2100 for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BINGHAM, MCCUTCHEN LLP
THREE EMBARCADERO CENTER
18 FLOOR
SAN FRANCISCO CA 94111-4067

COPY MAILED

SEP 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Vincent P. STANTON et al.	:	
Application No. 10/043,615	:	ON PETITION
Filed: January 8, 2002	:	
Attorney Docket No. 266/118	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 1, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 2, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and terminal disclaimer; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of October 1, 2004 is accepted as having been unintentionally delayed.

Furthermore, 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., 8USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the three-month extension of time submitted with the petition on July 27, 2005 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

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 MPP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 1637 for appropriate action on the concurrently filed election.

Brian Hearn
Petitions Examiner
Office of Petitions

cc: Squire, Sanders & Dempsey L.L.P.
One Maritime Plaza, Suite 300
San Francisco, CA 94111-3492

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

MARK B. WILSON
FULBRIGHT & JAWORSKI
SUITE 2400
600 CONGRESS AVENUE
AUSTIN, TX 78701

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JAN 1 0
OFFICE OF PETITIONS

In re Application of	:	
Patricia Sarcabal et al	:	
Application No. 10/043,639	:	NOTICE
Filed: January 9, 2002	:	
Attorney Docket No. CHEP:004US	:	

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

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FULBRIGHT & JAWORSKI L.L.P.
SUITE 2400
600 CONGRESS AVENUE
AUSTIN, TX 78701

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NOV 29 2007

OFFICE OF PETITIONS

In re Patent No. 7,267,972	:	
Application No. 10/043,639	:	
Filed: January 9, 2002	:	ON PETITION
Issued: September 11, 2007	:	
Attorney Docket No. CHEP:004US	:	

This is a decision on the petition filed October 18, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct and add the names of the assignees on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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GENERAL INSTRUMENT CORPORATION
DBA THE CONNECTED HOME SOLUTIONS
BUSINESS OF MOTOROLA, INC.
101 TOURNAMENT DRIVE
HORSHAM, PA 19044

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SEP 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Gordon Bechtel et al	:	
Application No. 10/043,643	:	DECISION GRANTING PETITION
Filed: January 11, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. D2505	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of June 15, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2623

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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LEIGH P. GREGORY
ATTORNEY AT LAW
PO BOX 168
CLEMSON SC 29633-0168

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JUL 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Jeff Skillern :
Application No. 10/043,657 : ON PETITION
Filed: January 8, 2002 :
Attorney Docket No. SKIL-001CON :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed April 8, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on September 16, 2004, for failure to submit within three months, a proper and timely response to the final Office action mailed on June 15, 2004. By Advisory Action dated January 6, 2005, petitioners were informed that the reply to the Final Office Action, filed October 15, 2004 with a one month extension of time, did not place the application in condition for allowance. Accordingly, this application is abandoned. The instant petition and this decision precede the mailing of the Notice of Abandonment.

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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 an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

Petitioner has submitted a Request for Continued Examination (RCE) and the amendment filed October 15, 2004 as the submission required under 37 CFR 1.114.

Petitioner has also requested a three month extension of time with the petition to revive. Pursuant to 37 CFR 1.136 however, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1020.00 extension of time fee submitted with the petition on April 8, 2005, was subsequent to the maximum period obtainable for reply, the fee is unnecessary. Petitioner may request a refund from the Office of Finance.

This matter is being referred to Technology Center 3727 for processing of the RCE and submission.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MAY 23 2005

WANG, HARTMANN & GIBBS, P.C.
1301 Dove Street
Suite 1050
Newport Beach, CA 92660

In re application of
James G. Vagim III et al.
Application No. 10/043,676 : DECISION ON REQUEST
Filed: January 09, 2002 : FOR WITHDRAWAL OF
For: METHODS AND SYSTEMS FOR DEAL : ATTORNEY
STRUCTURING FOR AUTOMOBILE DEALERS

This is a decision on the request filed on March 10, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED as MOOT**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the attorney making the request; Natu J. Patel, does not now have power of attorney in this application as per the revocation dated October 14, 2004 and accepted May 04, 2005.

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

SNM/pav: 05/10/05

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Paper No. 15

EDWARD W. BULCHIS
DORSEY & WHITNEY
SUITE 3400
1420 FIFTH AVENUE
SEATTLE WA 98101

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SEP 04 2003

OFFICE OF PETITIONS

In re Application of
Timothy B. Cowles et al
Application No. 10/043,680
Filed: January 10, 2002
Attorney Docket No. 500792.03

ON PETITION

This is a decision on the petition, filed September 4, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 15, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2824 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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Paper No. 11

EDWARD W. BULCHIS, ESQ.
DORSEY & WHITNEY LLP
1420 FIFTH AVENUE, SUITE 3400
SEATLLE, WA 98101

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SEP 05 2003

OFFICE OF PETITIONS

In re Application of
Timothy B. Cowles et al
Application No. 10/043,682
Filed: January 10, 2002
Attorney Docket No. 500792.05

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

This is a decision on the petition, filed September 4, 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 June 27, 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 2824 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

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

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Paper No. 6

SHERMAN & SHERMAN
Seventeenth Floor
2029 Century Park East
Los Angeles, CA 90067

In re Application of
Isaac Bentolila, Yiming Zhou, Isaac Labeeb Ismail and Richard Humpleman
Application No.10/043,698
Filed: January 9, 2002
Attorney Docket Number: MET1.0002
Title of Invention: SYSTEM AND METHOD FOR BEHAVIORAL MODEL CLUSTERING IN TELEVISION USAGE, TARGETED ADVERTISING VIA MODEL CLUSTERING, AND PREFERENCE PROGRAMMING BASED ON BEHAVIORAL MODEL CLUSTERS

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

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OCT 29 2002

OFFICE OF PETITIONS

This is in response to the petition under 37 CFR 1.47(a),filed July 18, 2002 (certificate of mailing date 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 after having been presented with the application papers. Specifically, the petition indicates a copy of the application was sent via Federal Express to the non-signing inventor's last known address. Petitioner has provided evidence that correspondence sent to non-signing inventor was received. Petitioner also indicates several calls were made to the non-signing inventor. The non-signing inventor's failure to respond to the application sufficiently establishes that he refuses to execute the application papers.

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

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

This application is being forwarded to the Office of Initial Patent Examination.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

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

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NOV 09 2009

OFFICE OF PETITIONS

Myers, Andras, Sherman, LLP
19900 MacArthur Boulevard
Suite 1150
Irvine, CA 92612

In re Application:	:	
Isaac Bentolila et al.	:	
Application No. 10/043,698	:	NOTICE
Filed: January 9, 2002	:	
Attorney Docket No. MET2.PAU.02	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 31, 2009. 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. The petition is **GRANTED**.

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

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 10

SHERMAN & SHERMAN
Seventeenth Floor
2029 Century Park East
Los Angeles, CA 90067

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NOV 14 2002

OFFICE OF PETITIONS

In re Application of :
Isaac Bentolila, Yiming Shou, :
Labeeb Ismail and Richard Humpleman: DECISION ACCORDING STATUS
Application No. 10/043,714 : UNDER 37 CFR § 1.47(a)
Filed: January 9, 2002 :
Attorney Docket No. MET1.0025 :
Title: SYSTEM, METHOD, AND SOFTWARE:
APPLICATION FOR TARGETED :
ADVERTISING VIA BEHAVIORAL MODEL :
CLUSTERING, AND PREFERENCE :
PROGRAMMING BASED ON BEHAVIORAL :
MODEL CLUSTER :

This is a decision on the "Request for Reconsideration of Petition under 37 CFR § 1.47(a) for Filing on Behalf of Non-signing Inventor and Response to Decision Refusing Status" filed November 7, 2002.

The petition is **GRANTED**.

The above-identified application was filed on January 9, 2002, with an unexecuted declaration. Isaac Bentolila, Yiming Shou, Labeeb Ismail and Richard Humpleman were named as joint inventors. In response to a "Notice to File Missing Parts of Nonprovisional Application" mailed February 22, 2002, petitioner timely filed the initial petition under 1.47, declaration executed by available joint inventors on behalf of themselves and the non-signing inventor, and late surcharge. The petition was dismissed because the declaration was not acceptable. The declaration did not clearly set forth the citizenship of non-signing inventor Bentolila. A new executed declaration properly setting forth inventor Bentolila's citizenship was required.

On instant renewed petition, petitioner has supplied a new declaration. This declaration clearly sets forth inventor Bentolila's citizenship and is in all other respects in compliance with § 1.63. Petitioner has now met all requirements for status under § 1.47.

This application is hereby accorded Rule 1.47(a) status.

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

The application file is being forwarded to 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

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OFFICE OF PETITIONS

MYERS ANDRAS SHERMAN, LLP
19900 MACARTHUR BLVD
SUITE 1150
IRVINE, CA 92612

In re Application of :
Isaac Bentolila, et al. :
Application No. 10/043,714 : NOTICE
Filed: January 9, 2002 :
Attorney Docket No. MET2.PAU.25 :

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

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

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

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

Inquiries related to this communication should be directed to the April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Robert P. Gilmore :
Application No. 10/043,722 :
Filed: January 8, 2002 :
Attorney Docket No. MOBI-017/00US 301375-2037 :

This is a decision on the petition, filed November 9, 2005 under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

A Notice of Allowability, mailed April 26, 2005, required the submission of corrected drawings on or before July 26, 2005. This application became abandoned July 27, 2005. Accordingly, a Notice of Abandonment was mailed August 26, 2005.

This application is being forwarded to the Publishing Division for review of the drawings shown as having been received in the PTO on November 9, 2005.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]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.

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Paper No.

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Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

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OFFICE OF PETITIONS

In re Application of
Akira Nakano, et al.
Application No. 10/043,739
Filed: January 9, 2002
Attorney Docket No. 9281-424

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee, filed September 27, 2004.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid August 20, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 2653 for further processing of the request for continued examination under 37 CFR 1.114 filed September 27, 2004.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

COPY MAILED

SEP 27 2004

OFFICE OF PETITIONS

In re Application of
Akira Nakano, et al. :
Application No. 10/043,739 : ON PETITION
Filed: January 9, 2002 :
Attorney Docket No. 9281-424 :

This is a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee, filed September 27, 2004.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid August 20, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 2653 for further processing of the request for continued examination under 37 CFR 1.114 filed September 27, 2004.

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

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

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Paper No. 8

MAIL

JUN 25 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

COOLEY GODWARD LLP
ATTN: PATENT GROUP FIVE PALO ALTO SQUARE
3000 EI CAMINO REAL
PALO ALTO , CA 94306-2155

In re Application of
Robert P. Gilmore
Application No. 10/043,746
Filed: January 8, 2002
For: WALKING WEAVER IMAGE REJECT MIXER FOR RADIO

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 May 14, 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/Agent associated with Customer Number 23419 have been withdrawn.

All future communications from the Office will be directed to the below-listed address 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.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

cc: Intel Corporation
Mailstop SC4/202
2200 Mission College Boulevard
Santa Clara, CA 95052

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

THOMAS SWENSON
LATHROP & GAGE, L.C.
4845 PEARL EAST CIRCLE, #300
BOULDER, CO 80301

COPY MAILED

AUG 2 6 2002

OFFICE OF PETITIONS

In re Application of :
Victor F. Petrenko :
Application No. 10/043,752 :
Filed: January 9, 2002 :
Attorney Docket No. 392150 :

NOTICE

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

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

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

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

This file is being forwarded to Technology Center 2800.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

O

AKIN GUMP STRAUSS HAUER & FELD LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103-7013

COPY MAILED

DEC 15 2004

OFFICE OF PETITIONS

In re Application of	:	
Diao Xu et al	:	
Application No. 10/043,761	:	NOTICE
Filed: January 10, 2002	:	
Attorney Docket No. 9346-018US	:	

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

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

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

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

Frances Hicks

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 2, 2005

TO SPE OF : ART UNIT 2816

SUBJECT : Request for Certificate of Correction on Patent No.: 6,847,248 / 10043763

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.

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

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 changes acceptable. TPC 11/22/05

SPE

2816
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Paul J. Esatto, Jr.
Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City, NY 11530

COPY MAILED

AUG 2 6 2002

OFFICE OF PETITIONS

In re Application of
Fukuda
Application No. 10/043,784
Filing Date: November 7, 2001
Attorney Docket No.: 15056
For: TELEPHONE UNIT HAVING TELEPHONE DIRECTORY WITH PICTURE DATA AND METHOD FOR GENERATING TELEPHONE DIRECTORY WITH PICTURE DATA

ON PETITION

This is a decision on the petition, filed May 10, 2002, in response to the Notice of Omitted Item(s) in a Nonprovsional Application ("Notice") requesting that the above-identified application be according a filing date of November 7, 2001, with Figures 2, 3, and 4 as part of the original disclosure.

The petition is **GRANTED**.

The application was submitted November 7, 2001. The Notice mailed March 8, 2002 indicated that a filing date had been granted but that Figures 2, 3, and 4 as described in the specification appeared to have been omitted from the application.

The Notice permits applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

Petitioner alleges that the application was submitted with four (4) sheets of drawings on which appeared the figures in question. Petitioner has included as evidence to this effect a date stamped return postcard acknowledging receipt of four (4) sheets of drawings. Petitioner has also included a copy of figures 2, 3, and 4.

The original drawings of Figures 2, 3 and 4 submitted with the application papers have not been located. However, in view of the evidence presented, the petition to accord the application a filing date of November 7, 2001 with Figures 2, 3, and 4 as part of the original disclosure is **GRANTED**.

Since the original drawings cannot be located in the Office, the copies supplied with the instant petition will be used for examination purposes.

No fee is due in connection with this matter. Petitioner may request a refund of the previously submitted $130.00 petition fee by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of November 7, 2001.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Patricia Faison-Ball
for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON PC
P. O. BOX 1022
MINNEAPOLIS, MN 55440-1022

COPY MAILED

AUG 16 2007

OFFICE OF PETITIONS

In re Application of Satoshi Seo et al Application No. 10/043,812 Filed: January 10, 2002 Attorney Docket No. 07977-292001-US5444	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed August 15, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 18, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2789 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 91614

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AUG 2 9 2002

OFFICE OF PETITIONS

In re Application of
Wells, et al.
Application No. 10/043,833
Filed: January 11, 2002
Attorney Docket No. SUNESIS.2DV1C1
For: METHODS FOR RAPIDLY INDENTIFYING SMALL ORGANIC MOLECULE LIGANDS FOR BINDING TO BIOLOGICAL TARGET MOLECULES

DECISION GRANTING PETITION

This is a decision on the petition entitled, "PETITION UNDER 37 CFR 1.182," filed April 23, 2002 (certificate of mailing date April 18, 2002), requesting, in effect, withdrawal of the Notice to File Omitted Item(s) in a Nonprovisional Application (Notice). The petition will be treated under 37 CFR 1.53(e).

The application was filed on January 11, 2002. On April 4, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that page 29 described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that page 29 be accorded a filing date of January 11, 2002 on the basis that 36 sheets of specification, including allegedly missing page 29, were received in the Patent and Trademark Office (PTO) on January 11, 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 11, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 36 pages of specification.

The return postcard constitutes *prima facie* evidence that 36 pages of specification, including page 29, were filed on January 11, 2002. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioners' authorization, deposit account no. 11-1410 will be credited the $130.00 petition fee.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of January 11, 2002, using the copy of page 29 submitted with the instant petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

WILLIAM H. HONAKER, ESQ.
HOWARD & HOWARD
Suite 101
39400 Woodward Avenue
Bloomfield Hills, MI 48304-5151

COPY MAILED

JUL 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Huyser et al.	:	DECISION ON APPLICATION
Application No. 10/043,842	:	FOR
Filed: January 10, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 60,210-053	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (37 CFR § 1.705)," filed June 10, 2004. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred thirty-five (135) days to two hundred thirty-nine (239) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is two hundred thirty-eight (238) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 10, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 135 days. On November 24, 2004, applicant

timely[1] submitted an application for patent term adjustment (with required fee). Applicant disputes the period of adjustment for Office failure to mail a first action under 35 U.S.C. 132. Applicant maintains that in accordance with 37 C.F.R. 1.703, the period of adjustment for Office delay in mailing the first Office action under 35 U.S.C. 132 should be 242 days based on the mailing of an Office action on November 6, 2003. Applicant contends that the Office delay should not be calculated based on the mailing of an Office action on September 16, 2003.

The record supports a conclusion that the patent issuing from the application is not subject to a terminal disclaimer.

Applicant's evidence and arguments have been considered. It is concluded that under the circumstances of this case, the date of mailing of the Office action mailed November 6, 2003 should be used in calculating Office delay pursuant to § 1.703(a)(1). However, the number of days in the period of adjustment pursuant to § 1.703(a)(1) for the Office's mailing of a first action under 35 U.S.C. 132 on November 6, 2003, is 241 days, counting the number of days beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), March 11, 2003, and ending on the date of the mailing of the first action under 35 U.S.C. 132, November 6, 2003.

Moreover, it is concluded that applicant's delay should be calculated based on the time in excess of three months that it took applicant to respond to the Office action mailed November 6, 2003. Thus, as stated by applicant, the period of delay pursuant to § 1.704(b) is 3 days, not 55 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is two hundred thirty-eight (238) days (241 - 3).

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

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

---

[1] PALM records indicate that the Issue Fee payment was received on June 11, 2004.

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

Attachment: Copy of Revised PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

WILLIAM H. HONAKER, ESQ.
HOWARD & HOWARD
Suite 101
39400 Woodward Avenue
Bloomfield Hills, MI 48304-5151

COPY MAILED
JUL 27 2005
OFFICE OF PETITIONS

In re Application of	:	
Huyser et al.	:	DECISION ON APPLICATION
Application No. 10/043,842	:	FOR
Filed: January 10, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 60,210-053	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (37 CFR § 1.705)," filed June 10, 2004. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred thirty-five (135) days to two hundred thirty-nine (239) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is two hundred thirty-eight (238) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 10, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 135 days. On November 24, 2004, applicant

timely[1] submitted an application for patent term adjustment (with required fee). Applicant disputes the period of adjustment for Office failure to mail a first action under 35 U.S.C. 132. Applicant maintains that in accordance with 37 C.F.R. 1.703, the period of adjustment for Office delay in mailing the first Office action under 35 U.S.C. 132 should be 242 days based on the mailing of an Office action on November 6, 2003. Applicant contends that the Office delay should not be calculated based on the mailing of an Office action on September 16, 2003.

The record supports a conclusion that the patent issuing from the application is not subject to a terminal disclaimer.

Applicant's evidence and arguments have been considered. It is concluded that under the circumstances of this case, the date of mailing of the Office action mailed November 6, 2003 should be used in calculating Office delay pursuant to § 1.703(a)(1). However, the number of days in the period of adjustment pursuant to § 1.703(a)(1) for the Office's mailing of a first action under 35 U.S.C. 132 on November 6, 2003, is 241 days, counting the number of days beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), March 11, 2003, and ending on the date of the mailing of the first action under 35 U.S.C. 132, November 6, 2003.

Moreover, it is concluded that applicant's delay should be calculated based on the time in excess of three months that it took applicant to respond to the Office action mailed November 6, 2003. Thus, as stated by applicant, the period of delay pursuant to § 1.704(b) is 3 days, not 55 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is two hundred thirty-eight (238) days (241 - 3).

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

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

---

[1] PALM records indicate that the Issue Fee payment was received on June 11, 2004.

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

Karin A Ferriter
for

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

Attachment: Copy of Revised PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Reed Smith LLP
P.O. Box 488
Pittsburgh PA 15230-0488

COPY MAILED

AUG 04 2003

OFFICE OF PETITIONS

In re Application of :
Hoare et al. :
Application No. 10/043,847 :
Filed: January 11, 2002 :
Attorney Docket No. 01-014-US :

ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(f)/(b), filed May 20, 2003, to accept an unintentionally delayed notification of the filing in a foreign country of an application directed to the invention disclosed in the subject application.

The petition is **GRANTED**.

The present nonprovisional application became the subject of an application filed in a foreign country on January 31, 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.

Applicant filed a "Request to Rescind Previous Nonpublication Request" on February 19, 2002 (certificate of mailing under 37 CFR 1.8 dated January 31, 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 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

---

[1] See "Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2)(B)(ii)-(iv)", available at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm.

[2] See id.

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

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

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

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

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

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. Furthermore, the application published on September 19, 2002.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 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
WASHINGTON, D.C. 20231
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Paper No. 6

MAYER FORTKOR & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

COPY MAILED
MAR 07 2003
OFFICE OF PETITIONS

In re Application of :
Michael Stuart Weaver et al :
Application No. 10/043,849 : NOTICE
Filed: January 10, 2002 :
Attorney Docket No. UDC-20101 :

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 2879.

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
www.uspto.gov

Paper No. 5

John W. Tessman
Cerus Corporation
Suite 300
2525 Stanwell Drive
Concord CA 94520

COPY MAILED

SEP 2 6 2002

OFFICE OF PETITIONS

In re Application of
Adonis Stassinopoulos and David Cook

Application No. 10/043,855
Filed: December 21, 2001
Attorney Docket No.: Cerus-5200

Title: METHODS FOR INACTIVATION OF PATHOGENS IN BIOLOGICAL MATERIALS

DECISION GRANTING PETITION

This is a decision on the petition filed June 3, 2002, under 37 C.F.R. §1.181(a), requesting that application number 10/043,855 be accorded a filing date of December 21, 2001.

The application was deposited on January 14, 2002. On March 26, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Missing Parts (Notice), stating that the application had been accorded a filing date of January 14, 2002[1].

In response, on June 3, 2002, applicants filed the present petition. Petitioners have included a statement that asserts that on December 21, 2001, they attempted to deposit the application with the United States Postal Service (USPS) as "Express Mail", but were mistakenly told that the application could not be mailed via Express Mail, due to the temporary closure of the Brentwood Mail Facility. As such, the application was mailed as "First Class Priority"[2, 3] and the filing date was the date of actual receipt in the Office, January 14, 2002.

1 The Notice also indicated that the oath or declaration was unsigned. The Notice set a period of response of two (2) months.

2 According to Rule 37 C.F.R. §1.10, only express mail will be considered filed on the date of deposit with the USPS.

On September 6, 2002, peitioner transmitted via facsimile transmission a statement from petitioner's Post Office, confirming that on December 21, 2001, petitioner was indeed incorrectly informed by a USPS employee that the USPS was not accepting Express Mail to zipcode 20231.

The evidence is convincing that on December 21, 2001, petitioner attempted to deliver the application papers via "Express Mail Post Office to Addressee" by the USPS, but the USPS prevented her from doing so. Therefore, the application was entitled to a filing date of December 21, 2001.

Accordingly, the petition is **GRANTED**.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 21, 2001, as well as the mailing of a corrected filing receipt.

Any inquiries related to this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

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

---

3 See OG Notice "Notifications Related to Events of September 11, 2001": Where the USPS refuses to accept the deposit of mail for delivery by express mail.

"In some cases, due to the recent emergency, certain post offices are refusing to accept the deposit of mail for delivery by Express Mail service. The USPTO is also designating this interruption in the Express Mail service of the USPS as a postal service interruption within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e). In addition, if a party attempts to deposit correspondence for delivery to the USPTO with the USPS by Express Mail under 37 CFR 1.10 ("Express Mail Post Office to Addressee") and the USPS refuses to accept such correspondence, the party is advised to take the following action: mail the correspondence to the USPTO by registered or first class mail with a statement by the person who originally attempted to deposit the correspondence with the USPS by Express Mail. The statement must indicate the date on which the person attempted to deposit the correspondence with the USPS and that the USPS refused to accept the correspondence. The statement must be signed in accordance with 37 CFR 10.18. The correspondence should be mailed as set out in 37 CFR 1.1(a) and include the special box designation: BOX FILING DATE."

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT LAW OFFICES OF RICK MARTIN, P.C.
416 COFFMAN STREET
LONGMONT, CO 80501

COPY MAILED

OCT 20 2004

OFFICE OF PETITIONS

In re Application of	:	
Dennis Yakobson	:	
Application No. 10/043,874	:	NOTICE
Filed: January 9, 2002	:	
Attorney Docket No. RM375p	:	

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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1764.

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

10-01-04

DACS

O I P E JC153
SEP 30 2004
PATENT & TRADEMARK OFFICE

TRANSMITTAL LETTER
(General - Patent Pending)

Docket No.
RM375p

In Re Application Of: **Yakobson, Dennis L.**

2004 OCT -5 PM 4:04

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/043,874	01/09/2002	Leung, Jennifer A.	23996	1764	6282

Title: **Plasma Reforming/Fischer-Tropsch Synthesis**

10/06/2004 DALLEN 00000069 10043874
01 FC:1461 465.00 OP

COMMISSIONER FOR PATENTS:

Transmitted herewith is:

Submission and Itemization of Fees Erroneously Paid as Small Entity Pursuant to 37 CFR 1.28(c); Notification of Loss of Small Entity Status Pursuant to 37 CFR 1.27(g)(2) and Acknowledgment Postcard.

RECEIVED
OCT 07 2004
OFFICE OF PETITIONS

in the above identified application.

- ☐ No additional fee is required.
- ☒ A check in the amount of **$465.00** is attached.
- ☒ The Director is hereby authorized to charge and credit Deposit Account No. **50-0617** as described below.
  - ☐ Charge the amount of
  - ☒ Credit any overpayment.
  - ☒ Charge any additional fee required.
- ☐ Payment by credit card. Form PTO-2038 is attached.

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.

Aileen Law

Signature

Dated: 9/29/2004

Aileen Law, Reg. No. 51,923
Patent Law Offices of Rick Martin, P.C.
416 Coffman Street
Longmont, CO 80501
303-651-2177

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as Express Mail in an envelope addressed to the "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on: 9-30-04 (Date)
Express Mail No. EV 331303921 US

Sara A. Gossman

Signature of Person Mailing Correspondence

Sara A. Gossman

Typed or Printed Name of Person Mailing Correspondence

cc:

OIPE JC188
SEP 3 0 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Yakobson, Dennis L.		
Serial No.:	10/043,874	Group Art Unit:	1764
Filed:	01/09/2002	Examiner:	Leung, Jennifer A.
For:	Plasma Reforming/Fischer-Tropsch Synthesis	Attorney Docket:	RM375p

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

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OCT 0 7 2004
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SUBMISSION AND ITEMIZATION OF FEES ERRONEOUSLY PAID AS SMALL ENTITY PURSUANT TO 37 CFR 1.28(c); NOTIFICATION OF LOSS OF SMALL ENTITY STATUS PURSUANT TO 37 CFR 1.27(g)(2)

Dear Sir:

In compliance with 37 CFR 1.28(c), please find a separate submission and itemization of fees erroneously paid under small entity status, and the deficiency payment required. The original status as small entity was established in error without deceptive intent, and small entity fees were paid in good faith. The deficiency amount owed has been calculated using the date on which the deficiency was paid in full.

This submission serves as a notification of loss of small entity status under 37 CFR 1.27(g)(2).

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on: September 30, 2004.

Express Mail No. EV 371303921 US

Type of Fee Involved	Current Fee Amount for a Non-Small Entity	Small Entity Fee Paid	Date Small Entity Fee Paid	Deficiency Owed for Each Fee Previously Paid in Error
Utility Application Filing Fee	$770.00	$370.00	3/28/2002	$400.00
Surcharge – Late Filing Fee	$130.00	$65.00	3/28/2002	$65.00

Total Deficiency Owed: **$465.00**

Respectfully Submitted,

Date: 9/29/2004

Aileen Law, Reg. No. 51,923
Patent Law Offices of Rick Martin, P.C.
416 Coffman Street
Longmont, CO 80501
(303) 651-2177

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 15

FRANCIS C. KOWALIK
CORPORATE COUNSEL, LAW DEPARTMENT
BAXTER INTERNATIONAL INC.
ONE BAXTER PARKWAY, DF2-2E
DEERFIELD IL 60015

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DEC 0 5 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
James Martucci et al
Application No. 10/043,891
Filed: January 11, 2002
Attorney Docket No. EIS-5799(1417G P 570)

This is a decision on the petition, filed December 3, 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 November 17, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 the undersigned at (703) 305-8859.

---

[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).

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 3763 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

cc:

PAUL J. NYKAZA
WALLENSTEIN WAGNER & ROCKEY, LTD.
311 SOUTH WACKER DRIVE, SUITE 5300
CHICAGO, ILLINOIS 60606-6630

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAXTER HEALTHCARE CORPORATION
1 BAXTER PARKWAY
DF2-2E
DEERFIELD IL 60015

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SEP 20 2005

OFFICE OF PETITIONS

In re Application of	:	
Martucci et al.	:	DECISION GRANTING PETITION
Application No. 10/043,891	:	
Filed: January 11, 2002	:	
Attorney Docket No. EIS-5799	:	
(112713-1101)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 11, 2005 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on January 5, 2005, for failure to pay the issue fee as required by the Notice of Allowance and Fee(s) Due mailed on October 4, 2004, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on July 26, 2005.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

MAR 2 6 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
Nicoll Edwards et al
Application No. 10/043,894
Filed: November 16, 2001
For: **METHOD AND APPARATUS TO PACKAGE AND ELECTRICALLY CONNECT TO A MICRODISPLAY**

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on March 6, 2003.

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

Petitioner has 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: Timothy J. Lorenz
INGRASSIA, FISHER & LORENZ, P. C.
7150 E. Cambelback Road, Suite 325
Scottsdale, AZ 85251

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WILMER CUTLER PICKERING HALE AND DORR LLP
60 STATE STREET
BOSTON, MA 02109

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FEB 22 2005

OFFICE OF PETITIONS

In re Application of :
Kevin K. Lee, et al. :
Application No. 10/043,896 :
Filed: January 9, 2002 :
Attorney Docket No. 113025-120US2 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 13, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed November 19, 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 February 20, 2004.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The person signing the instant petition also requests a change of correspondence address to the address given in the instant petition. However, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. 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 record until such time as appropriate instructions are received to the contrary.

It is noted that petitioner has tendered the small entity amount for the petition fee. However, there is nothing in USPTO records indicating that the application is entitled to small entity status. Therefore, the remaining balance of $685 for the petition fee and $395 for the Request for Continued Examination (RCE) has been charged to petitioner's deposit account. If the application is, in fact, entitled to small entity status, petitioner should promptly file a petition under 37 CFR 1.28.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, the $490 extension of time submitted with the petition on October 13, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account number 19-0079 as authorized.

Receipt is acknowledged of the Amendment filed October 13, 2004, with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being forwarded to Technology Center 2800, Art Unit 2871 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

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

cc: Peter S. Stecher
Gauthier & Connors
225 Franklin Street
Boston, MS 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

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LOCKE LIDDELL & SAPP LLP
ATTN DOCKETING
600 TRAVIS ST #3400
HOUSTON TX 77002

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DEC 2 0 2005

OFFICE OF PETITIONS

In re Application of		
Strutz, et al.	:	
Application No. 10/043,904	:	DECISION ON
Filed: January 11, 2002	:	PETITION
Attorney Docket No. 021902-096US-02	:	

This is in response to the petition under 37 CFR 1.137(b), filed November 21, 2005, to revive the above-identified application.

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

The above-identified application became abandoned for failure to timely respond to the non-final Office action mailed February 8, 2005. This Office action set a shortened statutory period for reply of three months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on May 9, 2005. The Office mailed a Notice of Abandonment on October 20, 2005.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an amendment.

The matter is being forwarded to Group Art Unit 3725 for consideration of the amendment filed November 15, 2005.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Beyer Law Group LLP
P.O. BOX 1687
Cupertino, CA 95015-1687

Mail Date: 04/20/2010

Applicant	: Frank Lee	: DECISION ON REQUEST FOR
Patent Number	: 7640434	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/043,910	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/11/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1094** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PATENT & TRADEMARK OFFICE

Paper No. ____

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025-1026

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SEP 2 5 2003

OFFICE OF PETITIONS

DOCKETED

In re Application of
Lee CHEW et al
Application No. 10/043,911
Filed: January 11, 2002
Attorney Docket No. 04939P022

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

This is a decision on the petition, filed September 24, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 6, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

It does not appear, absent benefit of the file record at this time, that the instant petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Mr. Samir A. Bhavsar 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

---

[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).

whose behalf he acts. However, if Mr. Bhavsar desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Bhavsar, 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 (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2815 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

cc:

Samir A. Bhavsar
Baker Botts LLP
2001 Ross Avenue, 6th Floor
Dallas, TX 75201-2980

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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DAHSHIAM CHIAO
MULTISEN TECHNOLOGY INC.
11 WOOD AVENUE
ALBERTSON, NY 11507

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Dah-Shiarn Chiao, et al.	:	
Application No. 10/043,928	:	ON PETITION
Filed: January 9, 2002	:	
Attorney Docket No. None	:	

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

A review of the record discloses that a final Office action was mailed in the above-mentioned application on October 7, 2005. On January 26, 2006, applicant filed an amendment, without an appropriate petition for extension of time. Consequently, on May 23, 2006, a Notice of Fee Deficiency was mailed. Since no response was filed, the application became abandoned for a failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 7, 2005. A Notice of Abandonment was mailed September 13, 2006. In response, the present petition was filed on November 3, 2006.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee as required by 37 CFR 1.17(b), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) under 37 CFR 114 or the filing of a continuing application. See MPEP 711.03(c)(III)(A)(2).

The amendment filed January 26, 2006 does not *prima facie* place the application in condition for allowance. See the attached Advisory Action and Notice of Non-Compliant Amendment.

Accordingly, the petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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

The centralized facsimile number is **(571) 273-8300**.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachments: Advisory Action
Notice of Non-Compliant Amendment

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : February 04, 2008

TO SPE OF : ART UNIT 2121

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/043,930 Patent No.: 7181644 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

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

You can fax the Directors/SPE response to 571-270-9990

LAMONTE

NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

A De Cady SPE AU 2121

PAGE 2/3 * RCVD AT 3/19/2008 11:27:34 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/6 * DNIS:2709990 * CSID:7033050040 * DURATION (mm-ss):01-14

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

MCDONNELL BOEHNEN HULBERT &
BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

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NOV 15 2004

OFFICE OF PETITIONS

In re Application of	:	
Leonid Beigelman et al	:	
Application No. 10/043,951	:	ON PETITION
Filed: January 11, 2002	:	
Attorney Docket No. MBHB00,716-D (RPI No. 600	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed March 23, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 24, 2004.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of a continuing application.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

ANDREW F. PRATT
DORSEY & WHITNEY
SUITE 3400
1420 FIFTH AVENUE
SEATTLE, WA 98101

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AUG 1 4 2002

OFFICE OF PETITIONS

In re Application of	:	
Joseph Ross NcNeal	:	
Application No. 10/043,952	:	NOTICE
Filed: January 9, 2002	:	
Attorney Docket No. 501124.01	:	

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 3677.

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

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

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/043,959	**14-Mar-03**	**PAVEL LAZAREV, ET AL.**	**NONE**

Title: THE METHOD OF FORMING ANISOTROPIC FILMS AND THE DEVICE FOR ITS IMPLEMENTATION

Art Unit	Paper Number

Correspondence Address:
Aldo Test
DORSEY & WHITNEY
Four Embarcadero Center, Suite 3400
San Francisco CA 94111-4187

PATENT & TRADEMARK OFFICE
MAILED
MAR 24. 2003
LICENSING & REVIEW

Please find attached a communication from the Examiner regarding the Petition for Retroactive License under 37 CFR 5.25.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DORSEY & WHITNEY LLP
Four Embarcadero Center; Suite 3400
San Francisco, CA 94111-4187

In re:	LAZAREV et al	:	DECISION ON REQUEST
Serial No.:	10/043,959	:	UNDER 37 CFR 5.25
Filing date:	January 8, 2002		
Docket No:	none		

Title: THE METHOD FOR FORMING ANISOTROPIC FILMS AND THE DEVICE FOR ITS IMPLEMENTATION

This is a decision on the petition filed on March 14, 2003 for retroactive foreign filing license.

37 CFR 5.25(a) requires the following:

1. A listing of each of the foreign countries in which the unlicensed patent application material was filed,
2. The dates on which the material was filed in each country,
3. A verified statement (oath or declaration) containing:
   i. An averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order,
   ii. A showing that the license has been diligently sought after discovery of the proscribed foreign filing, and
   iii. An explanation of why the material was filed abroad through error and without deceptive intent without the required license under § 5.11 first having been obtained, and
4. The required fee (§ 1.17(h)).

The petition is **Denied** at this time in that the petition is defective since the requirements set forth in 37 C.F.R. 5.25(a)(3)(ii-iii) have not been met.

The declaration of Alla Sakharova states that the application was filed in Russia and that she did not know of the requirements of a license for filing in a foreign country. However, the specific circumstances surrounding the proscribed filing have not been fully explained to support the allegation of action through error and without deceptive intent. What is required is a showing of facts rather than mere allegation of action through error. Statements of fact should not be mere conclusionary but must include how and why the error occurred and when the "error" was discovered.

Accordingly, the provisions of 37 CFR 5.25 not having been fully met, the petition is denied, and in the absence of any response within **60 days** of the mailing date of this letter, such denial will be made final and the final action under 35 U.S.C. 185 will be taken. Extensions of time may be had under 37 C.F.R. 1.136(a).

Ian J. Lobo
Patent Examiner
(703) 306-4161

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

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/043,959	**3/14/03**	**PAVEL LAZAREV, ET AL.**	**NONE**

Title: **THE METHOD OF FORMING ANISOTROPIC FILMS AND THE DEVICE FOR ITS IMPLEMENTATION**

Art Unit	Paper Number

Correspondence Address:
Aldo Test
DORSEY & WHITNEY
Four Embarcadero Center, Suite 3400
San Francisco CA 94111-4187

PATENT & TRADEMARK OFFICE
MAILED
JUN 30 2004
LICENSING & REVIEW

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 532,817
Grant Date: 30-Jun-04

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved
for Commissioner of Patents and Trademar

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such application or applications.

This license does not empower the filing of any applications, amendments, supplements or continuances originating in this country which disclose inventions, modifications, or variations not disclosed in the subject matter identified above.

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Office of Foreign Assets Control, Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminsttration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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DORSEY & WHITNEY LLP
Four Embarcadero Center; Suite 3400
San Francisco, CA 94111-4187

In re:	LAZAREV et al	:	DECISION ON REQUEST
Serial No.:	10/043,959	:	UNDER 37 CFR 5.25
Filing date:	January 8, 2002		
Docket No:	A-71213/AJT		

Title: **DEVICE AND METHOD FOR FORMING ANISOTROPIC FILMS**

This is a decision on the petition filed on May 6, 2003 for retroactive foreign filing license.

It has been determined that a retroactive license for foreign filing under 35 U.S.C.184 be granted with respect to the filings listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under a secrecy order, that the license was diligently sought after discovery of the proscribed foreign filing, and that the material was filed abroad without the required license under 37 C.F.R 5.11 through error and without deceptive intent.

Country	**Date**
Russia	January 10, 2001
PCT	January 10, 2002

Ian J. Lobo
Patent Examiner
(703) 306-4161

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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Woodard, Emhardt, Naughton, Moriarty and McNett
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis IN 46204-5137

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SEP 10 2007

OFFICE OF PETITIONS

In re Application of :
Oleg WASYNCZUK et al. :
Application No. 10/043,981 : ON PETITION
Filed: January 11, 2002 :
Attorney Docket No. 16410-112 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to properly reply to the final Office action mailed April 24, 2006, which set a shortened statutory period for reply of three (3) months. An amendment along with a three (3) month extension of time under the provisions of 37 CFR 1.136(a) was filed October 24, 2006. The amendment was not considered responsive to the final Office action. Therefore, the application became abandoned on October 25, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination and associated fee; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of April 24, 2006 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Brian Sines at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 2128 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/25/08

TO SPE OF : ART UNIT 2128

SUBJECT : Request for Certificate of Correction for Appl. No.: 10043981 Patent No.: 7353157 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

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.

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

Comments: _____

_____

_____

_____

_____

SPE /Kamini Shah/ Art Unit 2128

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
www.uspto.gov

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 06/18/2010

Applicant	: Partha Bhattacharya	: DECISION ON REQUEST FOR
Patent Number	: 7636937	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/044,019	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/11/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **981** 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
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OFFICE OF PETITIONS

BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

In re Application of
Badylak, et al.
Application No. 10/044,031
Filed: January 11, 2002
Docket No.: 3220-69262
For: PURIFIED SUBMUCOSA GRAFT MATERIAL

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed June 7, 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 January 11, 2002 without an executed oath or declaration and naming Stephen F. Badylak, Michael C. Hiles, and Steve A. Kahn as joint inventors. Accordingly, on January 31, 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 and drawings); (2) an acceptable oath or declaration in compliance with 35 USC 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition lacks requirement (1) stated above. The petition lacks sufficient evidence that the non-signing inventor cannot be reached, was ever presented with a copy of the application papers (specification, claims and drawings), or, having been presented with the application papers, refused to sign the oath or declaration.

Petitioner states that on February 22, 2002, a copy of the application and a declaration were sent to Kenneth Gandy, counsel representing Cook Biotech, Inc., the employer of inventor Michael C. Hiles. A second letter was sent to Kenneth Gandy on March 20, 2002.

Petitioner is advised that before a refusal can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a copy of the application papers to the non-signing inventor. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney. *See*, MPEP 409.03(d).

While petitioner has forwarded a copy of the application papers to an attorney known to be representing the inventor's employer, petitioner has failed to establish that said attorney also represents the inventor. Accordingly, petitioner has not established that the inventor or the inventor's legal representative received a copy of the application papers and thereafter refused to execute the declaration.

Any renewed petition must be supported by evidence that the inventor or the inventor's known legal representative was presented with a copy of the application papers. In particular, the renewed petition should set forth the manner in which the application papers were presented to the non-signing inventor or the inventor's legal representative. Petitioner may wish to provide the Office with copies of dated cover letters and, if available, copies of mailing receipts as evidence that the non-signing inventor or the inventor's legal representative was presented with a copy of the application papers. If, after having been presented with the application papers, an oral refusal is made, this fact along with the time and place of the refusal must be stated in an affidavit or declaration signed by the person to whom the refusal was made. Any written refusal to execute the oath or declaration by the inventor or the inventor's legal representative should likewise be submitted. Petitioner's attention is directed to MPEP 409.03(d) for further information on the presumptive evidence required for accordance of status under 37 CFR 1.47.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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8

Paper No. 6

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OFFICE OF PETITIONS

BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

In re Application of
Badylak, et al.
Application No. 10/044,031
Filed: January 11, 2002
Docket No.: 3220-69262
For: PURIFIED SUBMUCOSA GRAFT MATERIAL

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed November 18, 2002.

The petition is **GRANTED**.

Petitioner has shown that inventor Michael C. Hiles has refused to join in the filing of the above-identified application after having been presented with the application papers.

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

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

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

Telephone inquiries 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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MICHAEL C. HILES
4326 S. 900 EAST
LAFAYETTE, INDIANA 47905

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DEC 3 0 2002
OFFICE OF PETITIONS

In re Application of
Badylak, et al.
Application No. 10/044,031
Filed: January 11, 2002
Docket No.: 3220-69262
For: PURIFIED SUBMUCOSA GRAFT MATERIAL

LETTER

Dear Sir:

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

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

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

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

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BARNES & THORNBURG

11 South Meridian Street
Indianapolis, Indiana 46204
(317) 236-1313
(317) 231-7433 Fax

$

OIP
JUN 07 2002
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group:	3738
Confirmation No.:	9094
Application No.:	10/044,031
Invention:	**Purified Submucosa Graft Material**
Applicant:	Stephen F. Badylak
Filed:	January 11, 2002
Attorney Docket:	3220-69262
Examiner:	Unknown

Certificate Under 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Assistant Commissioner for Patents, Washington, D.C. 20231

on May 30, 2002

Gayle L. Twyman
(Signature)

Gayle L. Twyman
(Printed Name)

NOTICE OF CLAIMS COPIED FROM U.S. PATENT NO. 6,206,931

Director of United States Patent
and Trademark Office
Washington, D.C. 20231

Sir:

This Communication is to provide notice that the claims in the captioned application were copied substantially from claims in granted U.S. Patent No. 6,206,931. It is Applicants' contention that the subject matter of the claims of the captioned application is the prior invention of the presently named inventors. The purpose of filing the captioned application is to contest priority/inventorship as to the subject matter claimed in the present application common with that in U.S. Patent No. 6,206,931 and to obtain patent rights for the named applicants and their appropriate assignees. Examination of the present application leading to a determination

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that the claims are allowable with a declaration of interference with the aforementioned patent is requested.

Respectfully submitted

Steven R. Lammert

Steven R. Lammert
Registration No. 27,653
Attorney for Applicants

SRL:glt
Indianapolis, Indiana 46204
317-231-7258

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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DW 07-02

Paper No. 7

KILLWORTH, GOTTMAN, HAGAN & SCHAEFF, L.L.P
ONE DAYTON CENTRE, SUITE 500
DAYTON OH 45402-2023

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AUG 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Ahmad Reza Kashani	:	
Application No. 10/044,045	:	ON PETITION
Filed: 11 January, 2002	:	
Attorney Docket No. UVD 0298 PA	:	

This is a decision on the petition under 37 CFR 1.182, filed on 3 April, 2002, to correct the first and middle names of the sole inventor.

The petition is **GRANTED**.

The first name of the sole inventor will be changed from "REZA" to -- **AHMAD** --.

The middle name of the sole inventor will be -- **REZA** --.

The file is being forwarded to the Office of Initial Patent Examination, Customer Corrections to change Office records to reflect the change of the first and middle names of the sole inventor as noted above, and issuance of a corrected Filing Receipt. Thereafter, the file will be forwarded to Technology Center 2600 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
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DUANE MORRIS LLP
One Liberty Place
Philadelphia, Pennsylvania 19103-7396

In re:	Aguais et al	:	DECISION ON REQUEST
Serial No.:	10/044,071	:	UNDER 37 CFR 5.25
Filing date:	10 January 2002		
Docket No:	D3398-00033		

Title: SYSTEM AND METHODS FOR VALUING AND MANAGING THE RISK OF CREDIT INSTRUMENTS

In view of the communication(s) filed 20 February 2002, it has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filings listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought after discovery of the proscribed foreign filing, and that the material was filed abroad without the required license under 37 C.F.R. 5.11 first having been obtained through error and without deceptive intent.

Country	Date
CANADA	10 January 2002

Approved:

Ian J. Lobo
Patent Examiner
Group 3600
(703) 306-4161

UNITED STATES DEPARTMENT OF COMMERCE
Pat nt and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/044,071	2/20/02	AGUAIS, ET AL	D3398-00033

Title: **SYSTEM AND METHODS FOR VALUING AND MANAGING THE RISK OF CREDIT INSTRUMENT PORTFOLIOS**

Art Unit	Paper Number

Correspondence Address:
STEPHEN E. KOFFS
DUANE MORRIS LLP
ONE LIBERTY PLACE
PHILADELPHIA PA. 19103-7396

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

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Grant Date: 05-Mar-02

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved:

for Commissioner of Patents and Trademarks

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such aplication or applications.

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LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

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GROUP 3600

George Likourezos
9321 Ridge Boulevard
Brooklyn, NY 11209-6706

MAILED
NOV 26 2002
DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
George Likourezos, et al.
Application No. 10/044,075
Filed: January 11, 2002
For: SYSTEM AND METHOD FOR EFFECTING A REAL-TIME PAYMENT FOR AN ITEM WON ON AN ELECTRONIC AUCTION

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed May 1, 2002 to make the above-identified application special. A supplemental petition was submitted on November 25, 2002.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed May 1, 2002 and supplemented on November 25, 2002 includes all of the requirements above and, therefore, the petition is **GRANTED**.

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

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner

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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.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703)308-2121

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 13

DATE : 12/21-04

TO SPE OF : ART UNIT 2600

SUBJECT : Request for Certificate of Correction on Patent No.: 6,784,875

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

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

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

Thank You For Your Assistance

C Jackson
Certificates of Correction Branch

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

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

Comments:

BIPIN SHALWALA 2629
SPE SUPERVISORY PATENT EXAMINER Art Unit
TECHNOLOGY CENTER 2600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : 6,956,912 B2
Serial No. : 10/044,109
Inventor(s) : Bass
Issued : October 18, 2005
Title : **TURBO DECODER WITH CIRCULAR REDUNDANCY CODE SIGNATURE COMPARISON**
Docket No. : **I-2-174.1US**

Re: Request for Certificate of Correction

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

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request.

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

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

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

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items B and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

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

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

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

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

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100).

Ernest C. White, ***LIE***
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

ecw

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UNITED STATES PATENT AND TRADEMARK OFFICE
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DIW 01-03

Paper No. 7 #7

ZAGORIN O'BRIEN & GRAHAM LLP
401 W 15TH STREET
SUITE 870
AUSTIN TX 78701

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OFFICE OF PETITIONS

In re Application of	:	
David M. Ungar	:	
Application No. 10/044,112	:	DECISION GRANTING PETITION
Filed: 24 October, 2001	:	
Att'y Docket No. 004-3307	:	

This is a decision on the "Request for Corrected Filing Receipt" filed on 5 August, 2002, which is treated as a petition requesting that the application, including four (4) sheets of drawings, be accorded a filing date of 24 October, 2001, rather than the currently-accorded filing date of 4 June, 2002.

On 24 October, 2001, the application was filed.

On 7 March, 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 24 October, 2001, but that Figures 4A-4E described in the specification appeared to have been omitted from the application. Additionally, on 30 May, 2002, a Request for Substitute Papers was mailed, requesting that applicants supply a copy of the papers originally filed on 24 October, 2001, because the original application papers had been damaged during the USPS mail sanitization process and were no longer in condition to become part of the permanent records of the USPTO.

In response, on 4 June, 2002, petitioners supplied a copy of their postcard receipt and the application papers, including four (4) sheets of drawings containing Figures 1, 2, 3A-D, and 4A-E. The postcard contains an "Office-date" of 10/24/01 and the above-identified application number and itemizes the filing of, *inter alia*, four (4) sheets of drawings. In response, the application was accorded a filing date of 4 June, 2002.

Petitioners request that the application be accorded a filing date of 24 October, 2001, as a complete application, including four (4) sheets of drawings, was present on that date.

Upon review of the record, three (3) sheets of drawings containing Figures 1, 2, and 3A-D, have been located among the application papers received on 24 October, 2001. However, the evidence is convincing that the application papers deposited on 24 October, 2001, included four sheets of drawings, one of which was subsequently misplaced in the USPTO. Therefore, the application, including one (1) sheet of drawings containing Figures 4A-E, is entitled to a filing date of 24 October, 2001.

In view of the above, the petition is granted.

The Notice mailed on 7 March, 2002, is withdrawn. No petition fee is due and none has been charged.

The application will be reprocessed with a filing date of 24 October, 2001, using the application papers filed on that date and the one sheet of drawings containing Figures 4A-E supplied on 4 June, 2002.

The application is being returned to Initial Patent Examination Division for reprocessing with a filing date of **24 October, 2001**, using the application papers filed on that date, and the one sheet of drawings supplied on 4 June, 2002.

Telephone inquiries specific to this matter should be directed to the undersigned at 703 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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. 3

JANE MASSEY LICATA
LICATA & TYRRELL P.C.
66 E. MAIN STREET
MARLTON, NJ 08053

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OFFICE OF PETITIONS

In re Application of :
Lakshmi Narayanan Gudapakkam et al :
Application No. 10/044,140 :
Filed: January 11, 2002 :
Attorney Docket No. RTS-0362 :

NOTICE

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

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

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

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

This file is being forwarded to Technology Center 3600.

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

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

DEC 20 2002

UR
PAPER NO.5

In re Application of	:	
Wendy C. Grande et al.	:	DECISION
Serial No. 10/044,147	:	ON
Filed: January 11, 2002	:	PETITION
For: INTEGRATED FUEL CELL AND	:	UNDER 708.02,V
ELECTROCHEMICAL POWER SYSTEM	:	
EMPLOYING THE SAME	:	

This is in response to the petition filed April 05, 2002, requesting that the above-identified application be granted Special Status under Sections 708.02 (V) of the MPEP and 37 CFR 1.102(c).

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

Jacqueline M. Stone

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

Howrey Simon Arnold & White LLP
301 Ravenswood Avenue, Box 34
Menlo Park, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 7

HOWREY SIMON ARNOLD & WHITE LLP
301 RAVENSWOOD AVENUE, BOX 34
MENLO PARK, CA 94025

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MAY 12 2004
OFFICE OF PETITIONS

In re Application of	:
Coulson et al.	: DECISION GRANTING
Application No. 10/044,147	: PETITION
Filed: January 11, 2002	:
Attorney Docket No.	:
04813.0017.NPUS01	

This is a decision on the petition under 37 CFR 1.182, filed May 12, 2003, to change the name of the first named inventor. The present petition was recently forwarded to the Office of Petitions for consideration of the merits. The Office sincerely apologizes for any inconvenience.

The petition is **granted**.

The name of the first inventor will be changed to **Wendy J. Coulson**. The Office records have been corrected to reflect the change of the first inventor's name as noted above.

The file is being returned to Technology Center 1700.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 8

KIRTON & McCONKIE
1800 Eagle Gate Tower
60 East South Temple Street
Salt Lake City UT 84111

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OFFICE OF PETITIONS

In re Application of
Jensen, et al.
Application No. 10/044,158
Filed: January 11, 2002
Attorney Docket No. 10209.388
For: FREEZE CONCENTRATION PROCESS

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed July 11, 2002, requesting in effect, withdrawal of the Notice of Incomplete Nonprovisional Application, mailed June 3, 2002.

The application was filed on January 11, 2002. On June 3, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that no filing date had been accorded to the application papers deposited on January 11, 2002 because no drawing was present, as is required by 35 USC 113.

In response to the Notice, petitioners timely filed the present petition. Petitioners argue that a January 11, 2002 filing date should be accorded to the above-identified application because a certificate of mailing by Express Mail and the transmittal letter filed with the patent application on January 11, 2002 indicated the inclusion of drawings.

Petitioners are advised that a certificate of mailing cannot be relied upon to obtain a filing date. 37 CFR 1.8(a)(2)(I)(A). In addition, the provisions of 37 CFR 1.10(e) cannot be utilized to prove the contents of a mailing. MPEP 513 states, "Where there is a dispute as to the contents of correspondence submitted to the Office,...an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what document(s)... were filed in the Office with such correspondence. Rather, where the records of the Office (e.g. the file of the application) contain any document(s)... corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g., a postcard receipt under MPEP 503 containing specific itemization of the document(s)... purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s).. That is not among the official records of the Office."

A properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. Unfortunately petitioners have not submitted an itemized postcard receipt.

While petitioners' arguments are not persuasive, another avenue for the requested relief is available. It is noted that the above-identified application contains method claims. As stated in MPEP 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence.)

MPEP 601.01(f) also states that:

> A non provisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figures in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains exclusively method claims. Therefore, the above-identified application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g).

MPEP 601.01(g) states that if an application is filed without all of the drawing figures referred to in the specification, a "Notice of Omitted Items" is mailed indicating that the application has been accorded a filing date.

In view of the above, the "Notice" mailed June 3, 2002 was mailed in error and is hereby withdrawn.

The petition under 37 CFR 1.53(e) to accord a January 11, 2002 filing date is **granted**.

However, the three sheets of drawings filed on July 11, 2002 will not be entered at this time. Petitioners have several options: (1) Petitioners may submit an properly itemized date stamped postcard receipt showing that the Office received the drawings in question on January 11, 2002. (2) Petitioners may decide that the drawings are not necessary for the understanding of the invention. In this case, petitioners should file a Preliminary Amendment deleting all references to the omitted figures. (3) Petitioners may decide that they would like to include the drawings for examination purposes. In this case, petitioners should file a Preliminary Amendment requesting entry of the drawing figures filed on July 11, 2002. The examiner of record will examine the drawings for new matter.

Pursuant to petitioners' authorization, deposit account no. 50-0843 will be credited the $130.00 petition fee.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **January 11, 2002**.

Telephone inquiries specific to this matter 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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Paper No. 7

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

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OFFICE OF PETITIONS

In re Application of
Foster et al.
Application No. 10/044,164
Filed: October 26, 2001
Attorney Docket No. 030048042US

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

This is a decision on the petition, filed June 13, 2003, and supplemented on July 16, 2003, under 37 CFR 1.137(b), to revive the instant nonprovisional application.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on May 2, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

A petition under 37 CFR 1.137(b) to revive for failure to timely notify the Office of the filing of an application in a foreign country must be accompanied by:

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

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

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

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

This application is being forwarded to Technology Center Art Unit 2664 for examination in due course.

Latrice Bond

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

Marianne E. Morgan for

Frances Hicks
Lead Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

RATNERPRESTIA
P.O. BOX 1596
WILMINGTON DC 19899

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OFFICE OF PETITIONS

In re Application of
Ulrich Fiebag et al
Application No. 10/044,165
Filed: October 26, 2001
Attorney Docket No. KPG-5039US

ON PETITION

This is a decision on the petition, filed February 9, 2004, under 37 CFR 1.313(c) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:
(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(2) Consideration of a submission pursuant to 37 CFR 1.114; or
(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

The instant petition is not accompanied by: (2) the required Request for Continued Examination (RCE) to consider the IDS submitted with the instant petition. See 37 CFR 1.313(c)(2).

A response to this decision must be filed within **ONE MONTH** from the mail date of this letter.

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 facsimile: (703) 872-9306
Attn: Office of Petitions

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

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

Karen Creasy

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

FEB 1 0 2004

OFFICE OF PETITIONS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No:	10/044,165
Applicant:	FIEBAG et al
Filed:	October 26, 2001
Title:	METHOD AND APPARATUS FOR REFRESHMENT AND REUSE OF LOADED DEVELOPER
TC/A.U.:	1752
Examiner:	Hoa Van Le
Issue Fee Paid:	January 6, 2004
Issue Date:	Not Assigned

PETITION TO WITHDRAW APPLICATION FROM ISSUE 37 C.F.R. §1.313(c)

Mail Stop 313 (c)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The applicant hereby petition, pursuant to 37 C.F.R. § 1.313, to withdraw the above-identified patent application from issue.

The issue fee for this application was paid on January 6, 2004. The issue date has not yet been assigned.

The reason for this request for withdrawal from issue is for consideration of an IDS. A check for $130.00, the fee under 37 C.F.R § 1.17(i), is submitted herewith.

Respectfully submitted,

Bruce M. Monroe

Bruce M. Monroe, Reg. No. 33,602
Attorney for Applicant

BMM:eaa

Dated: February 6, 2004

P.O. Box 1596
Wilmington, DE 19899
(302) 778-2500

Enclosures: Information Disclosure Statement
PTO Form 1449
(5) References
Transmittal Form

The Commissioner for Patents is hereby authorized to charge payment to Deposit Account No. **18-0350** of any fees associated with this communication.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

February 6, 2004

Liz Ashton

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

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

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Foster, et al. :
Application No. 10/044,182 :
Filed: October 26, 2001 :
Attorney Docket No. 030048041US :

This is a decision on the papers styled, "Petition Under 37 CFR 1.53(e) To Establish Prior Receipt Of Items Considered Omitted," filed on May 20, 2002, requesting that the above-identified application be accorded a filing date of October 26, 2001, including Figure 7 as described in the specification.

The application was filed on October 26, 2001. However, on March 26, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Items In A Nonprovisional Application" that stated the application had been accorded a filing date, but Figure 7 as described in the specification appears to have been omitted.

In response, on May 20, 2002, the instant petition and a copy of Figure 7 as described in the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of eight (8) sheets of drawings on October 26, 2001. The eight (8) sheets of drawings contain Figures 1-7. A review of the application file indicates the presence of only seven (7) sheets of drawings with the sheet containing Figure 7 missing. It is assumed that missing sheet of drawings containing Figure 7 was misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee submitted on May 20, 2002 will be refunded to deposit account no. 50-0665.

This application will be returned to OIPE for further processing with a filing date of October 26, 2001, using the copy of Figure 7 as described in the specification, supplied on May 20, 2002.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 8

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

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OFFICE OF PETITIONS

In re Application of
Foster et al.
Application No. 10/044,182
Filed: October 26, 2001
Attorney Docket No. 030048041US

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b, filed June 13, 2003, and supplemented on July 16, 2003 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 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 30, 2003 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2155 for examination in due course.

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

Marianne C. Morgan for
Frances Hicks
Lead Petitions Examiner

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT MARC ZEIDMAN
15565 SWISS CREEK LANE
CUPERTINO CA 95014

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OFFICE OF PETITIONS

In re Application of	:	
Robert M. Zeidman	:	
Application No. 10/044,217	:	DECISION ON PETITION
Filed: November 19, 2001	:	
Attorney Docket No. M-8637-1P US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 20, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 21, 2007. A Notice of Abandonment was mailed January 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $770.00, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 2128 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Paper No. 05

OCT 31 2003

Averill & Varn
8244 Painter Ave.
Whittier, CA 90602

In re Application of:	:	
MARTIN, WILLIAM J.	:	
Application No. 10/044,238	:	DECISION ON PETITION
Filed: January 14, 2002	:	TO MAKE SPECIAL
Attorney Docket No. 133/108	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed January 14, 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 Statement of age from the applicant as a showing that applicant is now sixty five (65) years of age or more.

Accordingly, the petition is granted.

An action in this application was mailed on October 20, 2003. 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, she or he should consider such application simultaneously with this application and should state in the official letter of such application that she or 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

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United States Patent and Trademark Office
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Paper No. 6

Bernhard P. Molldrem, Jr., Esq.
2nd Floor, Monroe Building
333 East Onondaga Street
Syracuse NY 13202

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FEB 04 2008

OFFICE OF PETITIONS

In re Application of :
HOLLY K. ARNELL :
Application No. 10/044,241 : DECISION ON PETITION
Filed: 01/14/2002 :
Attorney Docket No. 647.00IPA :

This is a decision on the petition under 37 CFR 1.181, filed July 3, 2003, requesting withdrawal of the holding of abandonment in the above-identified application. The application file was recently forwarded to the Office of Petitions for a decision on the merits. The undersigned immediately reviewed the petition upon its receipt and rendered the decision below. The Office sincerely apologizes for any inconvenience.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the nonfinal Office action of November 5, 2002, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before February 5, 2003.

Petitioner states that he submitted a timely reply to the nonfinal Office action via facsimile transmission.[1] Petitioner provided the Office with a copy of the previously transmitted Amendment, bearing a certificate of facsimile dated February 4, 2003, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

[1] The Office notes that petitioner transmitted the reply to the correct fax number for submissions of communications before final to TC 3600, as it existed on that date.

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the nonfinal Office action of November 5, 2002, is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been transmitted by facsimile on February 4, 2003.

Telephone inquires regarding this decision may be directed to the unsigned at (571) 272-3211.

This application is being referred to Technology Center AU 3637 for appropriate action in the normal course of business on the reply received with petition.

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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No.4

Herbert B. Keil
KEIL & WEINKAUF
1101 Connecticut Avenue, N.W.
Washington, DC 20036

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AUG 1 5 2002

OFFICE OF PETITIONS

In re Application of
Schelberger et al.
Application No. 10/044255
Filed: January 14, 2002
Attorney Docket No.: 48648DIV

ON PETITION

This is a decision on the petition filed May 28, 2002, requesting in effect, that a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice") mailed April 29, 2002 be withdrawn.

The application was filed on January 14, 2002. However, on April 29, 2002, Initial Patent Examination Division mailed the Notice stating that the application had been accorded a filing date of January 14, 2002 but pages 18 and 22 of the specification appeared to have been omitted.

In response, pages 18 and 22 of the specification were filed on May 28, 2002. The petition states the transmittal letter submitted on January 14, 2002 indicated the present application as a divisional application incorporated by reference the entire disclosure of a prior application.

The petition is dismissed.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1)promptly establish prior receipt in the PTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioners neither assert that the missing pages were actually deposited in the PTO on January 14, 2002, with the other application papers nor request a later filing date.

Instead, applicants seek to add the pages of the specification to the present application on the basis that the pages are not new matter. However, no petition is necessary for that purpose. Additional pages of the specification may be entered by the primary examiner without a petition so long as the pages contain no new matter. See MPEP 608.02(a).

MPEP 201.06© 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)

In view of the incorporation by reference of the prior application, pages 18 and 22 of the specification supplied on January 14, 2002, would not constitute new matter if they were part of the original disclosure of the prior application. Applicants' state that application No. 09/581,833 contains pages 18 and 22 of the specification referred to in the present application.

If applicants desire that pages 18 and 22 be added to the application, the appropriate procedure is by way of amendment requesting the entry of the pages. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

Accordingly, the petition is inappropriate and is subject to dismissal.

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

Obviously, in view of the incorporation by reference of the prior application, pages 18 and 22 of the specification is not new matter if it was a part of the disclosure of the prior application.

The application is being returned to the Office of Initial Patent Examination Division for further processing with a filing date of January 14, 2002 using the application papers received in the Office on that date.

Thereafter, the application will be forwarded to appropriate group art unit for consideration by the examiner of the petition filed May 28, 2002, as an amendment requesting the entry of pages 18 and 22 of the specification.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Christina Tartera Donnell for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Date :05/09/07

Patent No. : 7213231 B1
Ser. No. : 10/044,290
Inventor(s) : BANDHOLE, JAGADISH
Issued : 05/01/07
Title : **CROSS-SPECTRUM APPLICATION MODEL FOR DYNAMIC COMPUTING ENVIRONMENTS IN SOFTWARE LIFECYCLE**
Docket No. : VRT0078US

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

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

By mail: Mail Stop PETITIONS

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

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

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

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

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN TX 78759

LMN

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CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN, TX 78759

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OFFICE OF PETITIONS

In re Patent No. 7,213,231 :
Issue Date: May 1, 2007 :
Application No. 10/044,290 : ON PETITION
Filed: January 11, 2002 :
Patentee(s): Jagadish Bandhole, et. al. :

This is a decision on the petition filed by facsimile transmission on May 17, 2007, which is being treated as a Request under 37 CFR 3.81[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**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

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

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EDWARDS & ANGELL, LLP
IP Group
P.O. Box 9169
Boston MA 02209

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OFFICE OF PETITIONS

In re Application of
Chris D. Constantinides
Application No. 10/044,296
Filed: January 10, 2002
Attorney Docket No. 56783

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed December 25, 2002, to revive the above-mentioned application.

The petition is **dismissed.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned on April 26, 2002, for failure to timely file an appropriate response to the "Notice of Missing Parts of Nonprovisional Application" (the "Notice") mailed February 25, 2002, which set a shortened period for reply of two (2) months from its mailing date. No extension of time for reply available to petitioner under 37 CFR 1.136(a) was obtained; the application became abandoned on April 26, 2002.

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

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

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

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

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

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

The Notice required that petitioner remit $740.00 for the application filing fee, $342.00 for claim fees, $280.00 for dependent claim fees, and $130.00 surcharge. A petition fee in the amount of $1280.00 was also required. As of the date of disposition of the subject petition, the balance of the designated deposit account was only $2,645.00, not sufficient to cover the amounts required. With any renewed petition filed, petitioner must remit the entire amount required by the Notice, and the petition fee.

The Notice also required substitute drawings to be filed. No drawings were found amount the petition papers. Any renewed petition filed must be accompanied by substitute drawings as required by the Notice.

The petition under 37 CFR 1.47(b) filed December 20, 2002, is noted, however; the petition will not be entertained until the application is revived by a proper petition pursuant to 37 CFR 1.137(b).

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

By mail: Assistant Commissioner for Patents
Box DAY
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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

PETIBRIEF 56783 (16941)

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IP Group
P.O. Box 9169
Boston MA 02209

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In re Application of
Chris D. Constantinides
Application No. 10/044,296
Filed: January 10, 2002
Attorney Docket No. 56783

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed December 25, 2002, to revive the above-mentioned application.

The petition is **dismissed.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned on April 26, 2002, for failure to timely file an appropriate response to the "Notice of Missing Parts of Nonprovisional Application" (the "Notice") mailed February 25, 2002, which set a shortened period for reply of two (2) months from its mailing date. No extension of time for reply available to petitioner under 37 CFR 1.136(a) was obtained; the application became abandoned on April 26, 2002.

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

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

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

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

Pet to Withdr Holding of Aband
Edwards & Angell LLP
Dike, Bronstein, Roberts & Cushman
101 Federal St. Boston, MA 02110
Date Rec'd 1/24/03
Docketed For Feb 21-Mar 21, 2003
By KRD

(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) and (2) above.

The Notice required that petitioner remit $740.00 for the application filing fee, $342.00 for claim fees, $280.00 for dependent claim fees, and $130.00 surcharge. A petition fee in the amount of $1280.00 was also required. As of the date of disposition of the subject petition, the balance of the designated deposit account was only $2,645.00, not sufficient to cover the amounts required. With any renewed petition filed, petitioner must remit the entire amount required by the Notice, and the petition fee.

The Notice also required substitute drawings to be filed. No drawings were found amount the petition papers. Any renewed petition filed must be accompanied by substitute drawings as required by the Notice.

The petition under 37 CFR 1.47(b) filed December 20, 2002, is noted, however; the petition will not be entertained until the application is revived by a proper petition pursuant to 37 CFR 1.137(b).

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

By mail: Assistant Commissioner for Patents
Box DAY
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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

EDWARDS & ANGELL, LLP
Dike, Bronstein, Roberts & Cushman
IP Group
P.O. Box 9169
Boston MA 02209

In re Application of
Chris D. Constantinides
Application No. 10/044,296
Filed: January 10, 2002
Attorney Docket No. 56783
For: MAGNETIC RESONANCE IMAGING METHODS AND COMPOSITIONS

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

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 13, 2003.

This is also a decision on the petition under 37 CFR 1.47(a), December 20, 2002.

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

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

Consideration under 37 CFR 1.137(b):

This application became abandoned on April 26, 2002, for failure to timely file an appropriate response to the "Notice of Missing Parts of Nonprovisional Application" (the "Notice') mailed February 25, 2002, which set a shortened period for reply of two months from its mailing date. No extension of the time for the reply was obtained; the application became abandoned on April 26, 2002. A petition under 37 CFR 1.1.37(b) was filed on December 25, 2002, and was dismissed by a decision mailed January 21, 2003. The instant renewed petition was then filed on February 13, 2003.

Petitioner remitted $2,802 in satisfaction of the outstanding fees required by the Notice. Petitioner also filed, on February 13, 2003, drawings as required by the Notice. A petition under 37 CFR 1.47(b) was also filed in response to the requirement of the Notice that an oath or declaration be filed.

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

Consideration under 37 CFR 1.47(a):

Petitioner has shown that the non-signing inventor, Chris Constantinides, has refused to join in the filing of the above-identified application after having been presented with the complete application papers. Petitioner has also shown that the 37 CFR 1.47(b) applicant has sufficient proprietary interest to merit the according of status under 37 CFR 1.47(b).

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(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.

Deposit account 04-1105 will be assessed $130.00 for the fee associated with a petition under 37 CFR 1.47.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 6

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

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OFFICE OF PETITIONS

In re Application of	:	
Karr	:	
Application No. 10/044,306	:	DECISION GRANTING
Filed: October 26, 2001	:	PETITION
Attorney Docket No. 50037.55US01	:	

This is a decision on the petition filed June 6, 2002, to establish that Figure 3 was part of the originally filed application.

On October 26, 2001, the application was filed.

On March 27, 2002, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of October 26, 2001, and advising applicants that Figure 3 described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that Figure 3 was deposited on October 26, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "6 sheets of drawings" on October 26, 2001.[1] Petitioner has also submitted a copy of the missing documentation- sheet 3 consisting of Figure 3.

Upon review of the record, Figure 3, deposited on October 26, 2001, has not been located. However, the evidence is convincing that the application papers deposited on October 26, 2001, included Figure 3, and that Figure 3 was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of Figure 3 submitted with the petition will be used for examination purposes.

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

The Notice mailed March 27, 2002, is hereby vacated to the extent the Notice indicated that Figure 3 was omitted.

The Application is being 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 3 of the drawings consisting of Figure 3 filed on June 6, 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

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MAIL

Paper No. 4

DEC 16 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

FOLEY HOAG, LLP
Patent Group, World Trade Center West
155 Seaport Boulevard
Boston, MA 02110

In re Application of
Garritt C. BINDER
Application No. 10/044,334
Filed: January 11, 2002
For: NETWORK COMMUNICATION

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed December 8, 2003.

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

The request is **GRANTED**.

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

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

cc: Garritt C. Binder
Syntrex Corporation
1750 Elm Street
Suite 500
Manchester, MA 03104

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Commissioner for Patents
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RICK D. NYDEGGER
WORKMAN, NYDEGGER & SEELEY
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

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FEB 1 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Bruces S. McLean et al	:	
Application No. 10/044,346	:	ON PETITION
Filed: January 11, 2002	:	
Attorney Docket No. 7678.585	:	

This is a decision on the petition filed February 4, 2005, which is being treated as a petition under 37 CFR 1.313(c)(2), requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on November 5, 2004, with the issue fee being due on or before February 5, 2005. The petition states that the issue fee in this case has not been paid.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of November 5, 2004 has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.

It is noted that the instant petition states that the issue fee is due January 5, 2005, when in fact the issue fee is due February 7, 2005.

The $130 fee submitted for the petition under 37 CFR 1.313(c)(2) will be refunded to petitioner's deposit account.

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

This matter is being referred to Technology Center Art Unit 2873.

Karen Creasy

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

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OPTV/MEYERTONS
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Vincent Dureau	: DECISION ON REQUEST FOR
Patent Number	: 7634795	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/044,348	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/11/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1292** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. 13

CIBA VISION CORPORATION
ATTN: RICHARD GEARHART
11460 JOHNS CREEK PARKWAY
DULUTH, GA 30097-1556

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APR 2 8 2004
OFFICE OF PETITIONS

In re Application of :
Peter Schwind, et al. :
Application No. 10/044,373 :
Filed: January 11, 2002 :
Attorney Docket No. LP/V-31702A :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 19, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 17, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 18, 2003.

The Change of Correspondence Address has been accepted and recorded.

The application file is being forwarded to Technology Center 1700, Art Unit 1751 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

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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MS-LC340
MINNEAPOLIS MN 55432-5604

FAX RECEIVED
MAY 25 2005
OFFICE OF PETITIONS

In re Application of	:	
Paul H. Stypulkowski	:	
Application No. 10/044,405	:	DECISION ON PETITION
Filed: January 11, 2002	:	
Attorney Docket No. 11738.00026	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 2, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the nonfinal Office Action mailed July 2, 2004, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on October 3, 2004. A Notice of Abandonment was mailed on March 30, 2005.

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

There is no indication that Charles Miller was ever empowered to prosecute the application. If Mr. Miller desires to submit and receive future correspondence regarding this application, the appropriate power of attorney documentation should be submitted.

The petition is **granted.**

The matter is being referred to Technology Center Art Unit 3762.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON TX 77208-1389

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MAR 26 2008

OFFICE OF PETITIONS

In re Application of	:	
Mark Osterkamp	:	DECISION ON
Application No. 10/044,408	:	PETITION
Filed: January 11, 2002	:	
Attorney Docket No. TA-00418	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b), filed November 13, 2007.

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, March 9, 2007, 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 June 10, 2007. A courtesy Notice of Abandonment was mailed on July 6, 2007.

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 is noted that the required statement of unintentional delay was made by attorney Derrington, who was appointed after the abandonment of the application. It is not fully apparent whether Mr. Derrington was in a position to have firsthand or direct knowledge of the facts and circumstances of the entire

[1] There was no distinct but concurrent requirement for new drawings.

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.

It is concluded that all requirements of 37 CFR 1.137(b) have been met.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 102605

DATE : 10-5-05

TO SPE OF : ART UNIT 1771

SUBJECT : Request for Certificate of Correction on Patent No.: 6936076 10044414

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:

Transmittal letter of Applicant only states 22 were filed and the second claim 23 was filed or appears in the file with an "X" through the claim number indicating it was not to be considered. However, the claim is patentable for the same reason as claim 22.

TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

SPE

1771
Art Unit

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BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES CA 90025-1026

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MAR 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Kathrin Berkner, et al.	:	
Application No. 10/044,420	:	ON PETITION
Filed: January 10, 2002	:	
Attorney Docket No. 74451.P138	:	

This is a decision on the petition, filed March 7, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 22, 2007, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated February 20, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being forwarded to Technology Center AU 2624 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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SEP 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Gonzalez et al.	:	DECISION ON PETITION
Application No. 10/044,441	:	
Filed: 01/11/2002	:	
Attorney Docket No. 57287US002	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 6, 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 August 18, 2005, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on November 19, 2005. A Notice of Abandonment was mailed on January 24, 2006.

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

Enclosure: Notice of Draftsperson's Patent Drawing Review

Form PTO-948 (Rev. 06/03)
Application No. 10/044,441

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW

The drawing(s) filed (insert date) 10/24/2005 are:

A. ✓ approved by the Draftsperson under 37 CFR 1.84 or 1.152.

B. ____ objected to by the Draftsperson under 37 CFR 1.84 or 1.152 for the reasons indicated below. Corrected drawings are required.

1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings: Black ink or Color (3 sets required).

___ Color drawings are not acceptable until petition is granted. Fig(s)____

___ Pencil and non black ink not permitted. Fig(s)____

2. PHOTOGRAPHS. 37 CFR 1.84(b)

___ One (1) full-tone set is required. Fig(s)____

___ Photographs may not be mounted. 37 CFR 1.84(e)

___ Photographs must meet paper size requirements of 37 CFR 1.84(f). Fig(s)____

___ Poor quality (half-tone). Fig(s)____

3. TYPE OF PAPER. 37 CFR 1.84(e)

___ Paper not flexible, strong, white, and durable. Fig(s)____

___ Erasures, alterations, overwritings. interlineations, folds, copy machine marks not accepted. Fig(s)____

4. SIZE OF PAPER. 37 CFR 1.84(f): Acceptable sizes:

21.0 cm by 29.7 cm (DIN size A4) or
21.6 cm by 27.9 cm (8 1/2x 11 inches)

___ All drawing sheets not the same size. Sheet(s)____

___ Drawings sheets not an acceptable size. Fig(s)____

5. MARGINS. 37 CFR 1.84(g): Acceptable margins:

Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm

___ Margins not acceptable. Fig(s)____

____Top (T) ____ Left (L)

____Right (R) ____ Bottom (B)

6. VIEWS. 37 CFR 1.84(h)

REMINDER: Specification may require revision to correspond to drawing changes, e.g., if Fig. 1 is changed to Fig. 1A, Fig 1B and Fig. 1C, etc., the specification, at the Brief Description of the Drawings, must likewise be changed.

___Views not labeled separately or properly. Fig(s)____

7. SECTIONAL VIEWS. 37 CFR 1.84(h)(3)

____ Sectional designation should be noted with Arabic or Roman numbers. Fig(s)____

8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(i)

___ Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned so that the top becomes the right side, except for graphs. Fig(s)____

9. SCALE. 37 CFR 1.84(k)

___ Scale not large enough to show mechanism without crowding when drawing is reduced in size to two-thirds in reproduction. Fig(s)____

10. CHARACTER OF LINES, NUMBERS, & LETTERS. 37 CFR 1.84(l)

___ Lines, numbers & letters not uniformly thick and well defined, clean, durable, and black (poor line quality). Fig(s)____

11. SHADING. 37 CFR 1.84(m)

___ Solid black areas pale. Fig(s) ____

___ Solid black shading not permitted. Fig(s)____

12. NUMBERS, LETTERS, & REFERENCE CHARACTERS. 37 CFR 1.84(p)

___ Numbers and reference characters not plain and legible. Fig(s)____

___ Figure legends are poor. Fig(s)____

___ Numbers and reference characters not oriented in the same direction as the view. 37 CFR 1.84(p)(1) Fig(s)____

___ English alphabet not used. 37 CFR 1.84(p)(2) Fig(s)____

___ Numbers, letters and reference characters must be at least 32 cm (1/8 inch) in height. 37 CFR 1.84(p)(3). Fig(s)____

13. LEAD LINES. 37 CFR 1.84(q)

___ Lead lines missing. Fig(s)____

14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.84(t)

___ Sheets not numbered consecutively, and in Arabic numbers beginning with number 1. Sheet(s)____

15. NUMBERING OF VIEWS. 37 CFR 1.84(u)

___ Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig(s)____

16. DESIGN DRAWINGS. 37 CFR 1.152

___ Surface shading shown not appropriate. Fig(s)____

___ Solid black surface shading is not permitted except when used to represent the color black as well as color contrast. Fig(s)____

COMMENTS:

Reviewer SON LAM

Date 09/11/2006

If you have questions, call (703) ~~305-8404~~ 305-0333 (EXT. 133)

Attachment to Paper No. ____

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SUITE 350
101 HOWARD STREET
SAN FRANCISCO, CA 94105

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SEP 2 8 2005

OFFICE OF PETITIONS

In re Application of	:
Malcolm Whitman et al	:DECISION ON PETITIONS
Application No. 10/044,442	:UNDER 37 CFR 1.78(a)(3)
Filed: January 11, 2002	:AND 37 CFR 1.78(a)(6)
Attorney Docket No. WHIT-06919	:

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed March 31, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR §§ 1. 78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR §§ 1.78(a)(3) and 1.76(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications.

The instant pending nonprovisional application was filed on January 11, 2002, and was pending at the time of filing of the instant petition. While a reference to the prior-filed applications 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 filed with the above-identified 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 would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or

transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the prior-filed applications in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the $1,370 petition fee submitted 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.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Examiner of Technology Center AU 1647 for appropriate action on the amendment filed March 31, 2005, including consideration of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) and the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for benefit of the prior-filed applications.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy[1]

---

[1] *Note* MPEP 201.11 (III)(D) , pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 09

JOHN F KACVINSKY
C/O BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025

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DEC 19 2003

OFFICE OF PETITIONS

In re Application of Hawkins, et al. Application No. 10/044,449 Filed: January 10, 2002 Attorney Docket No. 42390P12818	: : : : :	ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(a), filed December 8, 2003 (Certificate of Mailing dated December 5, 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 1.137(a)." As the petition fee has already been paid, there is no further fee for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply to the Notice to File Corrected Application Papers, mailed February 11, 2002, which set an extendable period for reply of two months for applicant to file substitute drawings. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, no reply to the Notice to File Corrected Application Papers having been received, the above-identified application became abandoned on April 12, 2002. A Notice of Abandonment was mailed on November 24, 2003.

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); (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 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks items (1) and (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 contends that he never received the Notice to File Corrected Application Papers. Petitioner has not met the showing required to establish nonreceipt of an Office action. In addition to stating that an Office action was not received, a practitioner must attest to the fact that a search of the file jacket and docket records indicates nonreceipt. Furthermore, a practitioner must include a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed.[3] For example, where an Office action sets a period for reply of two months, "a copy of the docket report showing **all** replies docketed for a date [two months] from the mail date of the nonreceived [Office action] must be submitted as documentary proof of nonreceipt of the [Office action]."[4] Here, petitioner has not submitted a copy of a docket record.

With regards to item (1), petitioner has not submitted substitute drawings. A copy of the Notice to File Corrected Application Papers is enclosed for petitioner's convenience.

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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] Id (emphasis added).

If petitioner can not meet the showing required to establish non receipt of the Notice to File Corrected Application Papers, petitioner may file a petition to revive pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition under 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 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 this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

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 should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Office action mailed February 11, 2002 (1 page)

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

Paper No. 12

JOHN F KACVINSKY
C/O BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025

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MAR 1 9 2004
OFFICE OF PETITIONS

In re Application of :
Hawkins, et al. :
Application No. 10/044,449 : ON PETITION
Filed: January 10, 2002 :
Attorney Docket No. 42390P12818 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed February 23, 2004 (Certificate of Mailing dated February 19, 2004).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the Notice to File Corrected Application Papers, mailed February 11, 2002, which set an extendable period for reply of two months for applicant to file substitute drawings. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, no reply to the Notice to File Corrected Application Papers having been received, the above-identified application became abandoned on April 12, 2002. A Notice of Abandonment was mailed on November 24, 2003. Applicants filed a petition to revive under 37 CFR 1.137(a) on December 8, 2003. However, this petition was dismissed in a decision mailed on December 19, 2003.

With the instant petition, petitioners paid the petition fee, submitted the required reply in the form of substitute drawings, and made the proper statement of unintentional delay.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

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

HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 04/21/2010

Applicant	: John David Russell	: DECISION ON REQUEST FOR
Patent Number	: 7653878	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/044,457	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/11/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **968** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. 7

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MAR 2 3 2004

OFFICE OF PETITIONS

ON PETITION

Davide R Grassetti
1980 Peppermint Falls Road
Jamestown, CA 95327

In re Application of
Davide Grassetti and Camillo Moro
Application No.10/044,463
Filed: January 10, 2002
Attorney Docket Number: 497872000400
Title of Invention: METHOD OF IMMUNOMODULATION USING THIONE-FORMING DISULFIDES

This is a decision on the petition under 37 CFR 1.137(a) filed January 20, 2004.

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

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR § 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely submit a response to the Notice to File Missing Parts of Nonprovisional Application mailed March 14, 2002. The notice set an extendable 2 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 15, 2002. A Notice of Abandonment was mailed on December 15, 2003.

A review of the petition submitted shows that the petition was not signed by a proper party of interest. All correspondence concerning this application must be signed by: 1) all named applicants (inventors), 2) all the owners of the rights to the invention, or 3) a registered attorney or agent duly appointed by the inventor(s) or the owner(s). Furthermore, all communications from the Office will be addressed to the first named inventor, unless specific instructions to the contrary are supplied by the named inventor(s) or owner(s).

While an applicant may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is, therefore, encouraged to secure the services of a registered patent attorney or agent (i.e., registered to practice before the U.S. Patent and Trademark Office) to prosecute the application, since the value of a patent is largely dependent upon skillful preparation and prosecution.

The Office cannot aid you in selecting a registered attorney or agent, however, we do have a publication which lists all the patent attorneys and agents who are registered to practice before the Office. The publication, "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office," may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. In addition, applicant may obtain this information: from the USPTO Internet Web Site [http: / /www.uspto.gov /]; by writing to the Commissioner of Patents and

Trademarks, Mail Stop OED, P.O.Box 1450, Alexandria, VA 22313; by calling the Office of Enrollment and Discipline at (703) 306-4097; or, through the Patent Assistance Center toll free number, 1(800)786-9199.

A review of Office records reveals Alan S. Bernikoff is not licensed to practice before the U.S. Patent and Trademark Office. However, if Mr. Bernikoff is authorized to practice before the U.S. Patent and Trademark Office, a registration number should be provided on any future correspondence.

The petition has **not** been reviewed on its merits. Nor has the change of address been entered.

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

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

By facsimile: (703) 872-9306

By delivery service: (FedEx, UPS, DHL, etc.) U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Davide R. Grassetti
19810 Peppermint Falls
Jamestown, CA 95327

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

Davide R Grassetti
1980 Peppermint Falls Road
Jamestown CA 95327

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Davide Grassetti and Camillo Moro
Application No.10/044,463
Filed: January 10, 2002
Attorney Docket Number: 497872000400

Title of Invention: METHOD OF IMMUNOMODULATION USING THIONE-FORMING DISULFIDES

This is a decision on the petition filed April 19, 2004 under 37 CFR 1.137(a) to revive the above-identified application.

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

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR § 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely submit a response to the Notice to File Missing Parts of Nonprovisional Application mailed March 14, 2002. The notice set an extendable 2 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 15, 2002. A Notice of Abandonment was mailed on December 15, 2003. A petition filed under 37 CFR 1.137(a) was dismissed on March 23, 2004.

PETITION TO REVIVE UNDER 37 CFR § 1.137(a)

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

(1) the required reply,[1]

(2) the petition fee,

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and

(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks items (1) and (3).

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

As to item (1) petitioner has failed to submit the required reply. The Notice of Missing Parts required applicant to submit a completely executed declaration and the $65 surcharge fee. The executed declaration submitted with the renewed petition only contains the signature of Camillo Moro. A review of the record shows that the Office has not received an executed declaration from Davide Grassetti. Any subsequent petition should contain the $65 surcharge fee and an executed declaration from Davide Grassetti.

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR §1.137(a).

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

In the present petition, petitioner states he failed to respond to the Notice of Missing Parts because he was unaware which document was missing. Petitioner further contends his former legal representative the law firm of Morrison & Foerster's negligence and malfeasance led to the abandonment of the above-identified application.

Petitioner's arguments have been considered but they are not persuasive to establish unavoidable delay. To the extent petitioner seeks to blame the failure to submit an executed declaration and the $65 surcharge, petitioner is bound by the actions or inactions of his representative. See Link v. Wabash Railroad Co., 370 U.S. 626 (1962). If in fact Morrison & Foerster failed to submit an executed declaration and failed to prosecute the application petitioner who is treating his application as his most important business would have contacted Morrison & Foerster to insure that appropriate action was being taken on his behalf. If it was determined Morrison & Foerster were not handling the application as petitioner desired, it is then petitioner's responsibility to either timely seek other counsel or prosecute the application on his own behalf.

Although petitioner indicates he believes the actions of his attorney rises to the level of negligence and malfeasance no evidence which would allow such a finding has been presented.

As to petitioner's argument he was not aware of what document was missing, petitioner was obligated to determine what document was missing, especially where petitioner believed his legal representative was not prosecuting the application in an appropriate fashion. Petitioner could have called the USPTO on his own behalf to determine what document was missing. A person treating the application as his most important business would have taken such steps. Thus petitioner's delay resulting from the lack of knowledge or improper application of the patent statue, rules of practice or the MPEP does not constitute an "unavoidable" delay.[2]

Accordingly, the showing of record is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. 151 and 37 CFR 1.137 (a).

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[2] 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. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130,131 (1891).

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR

§ 1.137(b) must be accompanied by the required reply, the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR § 1.137(b) was unintentional.

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

A request for a change in correspondence address must be signed by the applicant or a USPTO recognized agent or attorney before it will be entered and made of record. A change of correspondence address or a document granting access (i.e., a power to inspect) may only be signed by an attorney or agent who is not of record if an executed oath or declaration has not been filed in the application. See 37 CFR 1.33(a)

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

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

By facsimile:
(703) 872-9306

By delivery service:
(FedEx, UPS, DHL, etc.)
U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

enclosure
cc: Davide Grassetti
19810 Peppermint Falls Road
Jamestown, CA 95327

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 15

Davide R Grassetti
1980 Peppermint Falls Road
Jamestown CA 95327

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JUL 1 9 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Davide Grassetti and Camillo Moro
Application No.10/044,463
Filed: January 10, 2002
Attorney Docket Number: 497872000400

Title of Invention: METHOD OF IMMUNOMODULATION USING THIONE-FORMING DISULFIDES

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

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

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR § 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely submit a response to the Notice to File Missing Parts of Nonprovisional Application mailed March 14, 2002. The notice set an extendable 2 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 15, 2002. A Notice of Abandonment was mailed on December 15, 2003. Petitions filed under 37 CFR 1.137(a) were dismissed on March 23, 2004 and May 18, 2004.

PETITION TO REVIVE UNDER 37 CFR § 1.137(a)

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

(1) the required reply,[1]

(2) the petition fee,

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and

(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

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

The instant petition lacks item (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR §1.137(a).

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

In the present petition, petitioner renews arguments that petitioner is not responsible for the abandonment of the above-identified application. Petitioner contends the law firm of Morrison & Foerster had full responsibility to prepare and prosecute the application and their failure to submit the declaration and the late oath surcharge fee caused the application to become abandoned. Petitioner states when a request was made to the law firm of Morrison & Foerster that restricted services due to rising cost, Morrison & Foerster unilaterally terminated services prior to their submission of the documents to the USPTO. Petitioner contends his reliance upon the reputation of Morrison & Foerster was reasonable. Lastly, petitioner argues that health concerns made him unable to deal with patent issues.

Petitioner's arguments have been considered but they are not persuasive to establish unavoidable delay. It is noted that petitioner is ultimately responsible for the prosecution of his application. The USPTO must rely on the actions and inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions and inactions. See Link v. Wabash Railroad Co., 370 U.S. 626 (1962). Petitioner had a responsibility to monitor the law firm's performance under the contract or diligently inquire of the attorney or the USPTO into the status of the application. Petitioner was on notice on or about May 7, 2002 that Morrison and Foerster no longer intended to represent petitioner in the prosecution of the application. Yet petitioner has not provided any information as to why action was not taken in May of 2002. There was sufficient time for petitioner to submit the response to the Notice of Missing Parts with an appropriate request for extension of time. Furthermore, the USPTO sent petitioner a Notice of Acceptance of Power of Attorney mailed on February 3, 2003 indicating that all correspondence would be sent to petitioner's address. A petitioner who is treating his application as his most important business would have contacted Morrison & Foerster to insure that appropriate action had been taken on his behalf. If it was determined Morrison & Foerster had not handled the application as petitioner desired, it is then petitioner's responsibility to either timely seek other counsel or prosecute the application on his own behalf. Furthermore, petitioner is reminded that the Patent and Trademark Office is not the proper forum for resolving a dispute between petitioner and petitioner's representative.[2]

An adequate showing of unavoidable delay must also include a showing from Morrison & Foerster as to why action was not taken to prevent the application from becoming abandoned

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[2] Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995).

while the application was under Morrison & Foerster 's control. Petitioner should send a letter (accompanied by a copy of this decision) to Morrison & Foerster by registered or certified mail, return receipt requested, indicating to Morrison & Foerster that the USPTO is requesting their assistance in determining the circumstances surrounding the abandonment of this application, and is specifically requesting Morrison & Foerster to provide a statement determining the circumstances surrounding the abandonment of this application, and is specifically requesting Morrison & Foerster to provide a statement as to: (1) why a response to the Notice of Missing Parts and any required extensions of time were not filed and (2) when Morrison & Foerster received the declaration that petitioner purportedly mailed after February 4, 2002 . Such statements should be accompanied by copies of any documents (*e.g.* correspondence between petitioner and counsel) relevant to the outstanding Notice. In the event that Morrison & Foerster fails to provide a statement within a period (*e.g.*, within one (1) month) specified in such letter, petitioner should submit a copy of such letter and the return receipt indicating its delivery to Morrison & Foerster with any renewed petition under 37 CFR 1.137(a).

As to petitioner's assertion of health difficulties, a showing of unavoidable delay based upon illness/incapacitation must establish that applicant 's illness was of such a nature and degree as to render petitioner unable to conduct business (e.g. respond to the Office Action) during the period between March 14, 2002 and until the filing of a grantable petition. To the extent applicant continues to believe his illness made him incapable of conducting business, applicant should submit, medical records, statements from any specialist applicant has seen from March 14, 2002 thru the present. Petitioner should also indicate whether he was capable of maintaining employment during the time period in question. Petitioner should provide information as to who took care of petitioner's day to day business. showing of unavoidable delay based upon illness/incapacitation must establish that applicant 's illness was of such a nature and degree as to render petitioner unable to conduct business (e.g. respond to the Notice of Missing Parts) during the period between March 14, 2002 and until the filing of a grantable petition. To the extent applicant continues to believe his illness made him incapable of conducting business, applicant should submit, medical records, statements from any specialist applicant has seen from March 14, 2002 thru the present.

Accordingly, the showing of record is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. 151 and 37 CFR 1.137 (a).

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR § 1.137(b) must be accompanied by the required reply, the required petition fee ($665), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR § 1.137(b) was unintentional.[3]

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

Petitioner is reminded a proper change in correspondence address has not been provided. Until such time, all correspondence will continue to be mailed to the correspondence address of record.

---

[3]It is not clear as to whether petitioner intended to file a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application. The unintentional petition fee is currently $665. Since a fee was not submitted, the petition was treated as a renewed petition under 37 CFR 1.137(a) (unavoidable).

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

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

By facsimile: (703) 872-9306

By delivery service: (FedEx, UPS, DHL, etc.)
U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Davide Grassetti
19810 Peppermint Falls Road
Jamestown, CA 95327

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

Davide R Grassetti
1980 Peppermint Falls Road
Jamestown CA 95327

COPY MAILED

AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of
Davide Grassetti and Camillo Moro
Application No.10/044,463
Filed: January 10, 2002
Attorney Docket Number: 497872000400
Title of Invention: METHOD OF IMMUNOMODULATION USING THIONE-FORMING DISULFIDES

ON PETITION

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

This application became abandoned for failure to timely submit a response to the Notice to File Missing Parts of Nonprovisional Application mailed March 14, 2002. The notice set an extendable 2 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 15, 2002. A Notice of Abandonment was mailed on December 15, 2003. Petitions filed under 37 CFR 1.137(a) were dismissed on March 23, 2004, May 18, 2004 and July 19, 2004.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

Petitioner is once again reminded that a change of correspondence address is required. A change of correspondence address form is enclosed. All correspondence from the Office will continue to go to the correspondence address of record until a valid change of address has been submitted.

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

cc: Davide Grassetti
19810 Peppermint Falls Road
Jamestown, CA 95327

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BEESON SKINNER BEVERLY, LLP
ONE KAISER PLAZA SUITE 750
OAKLAND, CA 94612

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Davide R. Grassetti, et. al.	:	
Application No. 10/044,463	:	DECISION ON PETITION
Filed: January 10, 2002	:	TO WITHDRAW
Attorney Docket No. 107-000110US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 21, 2005.

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

A review of the file record indicates that the power of attorney to BEESON SKINNER BEVERLY, LLP has been revoked by the assignee of the patent application on June 19, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

Telephone inquiries concerning this decision should be directed to Denise Williams at 571-272-8930.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA CA 94501

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 11

LEFFERT JAY & POLGLAZE, P.A.
P.O. BOX 581009
MINNEAPOLIS, MN 55458-1009

COPY MAILED

FEB 27 2003

OFFICE OF PETITIONS

In re Application of :
Michael M. Walters, et al :
Application No. 10/044,479 : ON PETITION
Filed: January 11, 2002 :
Attorney Docket No. 125.028USR1 :

This is a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee, filed February 26, 2003.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 30, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

It does not appear that the instant petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of David N. Fogg appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular

[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).

party in whose behalf he acts. However, if Mr. Fogg desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Fogg, 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 (703) 305-9220.

After receipt of the file in the Office of Petitions the application will be forwarded to Technology Center AU 2838 for processing of the request for continued examination under 37 CFR 1.114.[2]

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

cc:

Fogg & Associates, LLC
P. O. Box 581339
Minneapolis, MN 55458-1339

[2] Receipt is also acknowledged of a Preliminary Amendment.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ERIC S. HYMAN
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CALIFORNIA 90025-1030

COPY MAILED

NOV 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Patrice Brachat :
Application No. 10/044,483 :
Filed: January 11, 2002 :
Attorney Docket No. 012302.P021 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(a), filed October 21, 2005, which is being treated as a petition under 37 CFR §1.181 (no fee) requesting withdrawal of the holding of abandonment of the above-identified application.

The petition under 37 CFR §1.181 is **GRANTED**.

The petition under 37 CFR §1.137(a) is **DISMISSED as moot** in view of the granting of the petition under 37 CFR §1.181.

BACKGROUND

A Notice of Allowance and Fee(s) Due/ Notice of Allowability (Notice) was mailed to the correspondence address of record on November 10, 2004, which set a non-extendable statutory period of three (3) months within which to pay the issue fee. As the issue fee was not submitted on or before the due date, this application became abandoned by operation of law (respectively, 35 USC 151 and 133) on February 11, 2005. The Notice(s) was (were) returned by mail on November 29, 2004.

A) Petition treated under 37 CFR 1.181

The petitioner requests withdrawal of the holding of abandonment, stating that the Notice was mailed to the wrong address. A review of the file reveals that a request for correction of Office Records was submitted on April 26, 2004. This correspondence was directed to "Mail Stop RECORDS". Closer inspection of the correspondence shows a request for change of correspondence address was intended. MPEP 601.03 states 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. The oath filed April 12, 2002 failed to change the correspondence address in accordance with MPEP procedures, and consequently every subsequent Office action was sent to the original

address of record. At no time after the filing of the oath on April 12, 2002 and before the filing of the request to change Office Records on April 26, 2004 did counsel notify the Office of the desired correspondence address. MPEP 601.03 further states that when an attorney or agent of record changes the correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP Code). While the communication of April 26, 2004 was sent to Mail Stop RECORDS in error, it will nonetheless be treated as a request for change of address as an appointed attorney of record has properly signed the document.

For the reasons explained above, the withdrawal of the holding of abandonment is granted. As there is no fee for the withdrawal of abandonment, the petition fee of $500.00 has been refunded to deposit account No. 02-2666.

B) Petition filed under 37 CFR 1.137(a)
The petition is dismissed as moot under 37 CFR 1.137(a) in view of the granting of the petition under 37 CFR §1.181.

Telephone inquiries concerning this decision should be directed to Douglas Wood, the undersigned, at (571) 272-3231.

D Wood

Douglas Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

MAY 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Roger Y. Tsien et al	:	
Application No. 10/044,486	:	DECISION ON PETITION
Filed: January 11, 2002	:	TO WITHDRAW
Attorney Docket No. 02307E-152710US	:	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 9, 2005.

The petition is **APPROVED**.

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

The request was signed by Kenneth E. Jenkins on behalf of himself and all the attorneys/agents of record.

All attorneys/agents of record have been withdrawn.

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

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

Telephone inquires concerning this decision should be directed to Karen Creasy at 571-272-3208.

This application is being referred to Technology Center AU 1624 to consider the Notice of Appeal and the Amendment submitted on April 20, 2006.

This application is being referred to Technology Center AU 1624 to consider the Notice of Appeal and the Amendment submitted on April 20, 2006.

Amelia Au
Petitions Examiner
Office of Petitions

cc:
QUINE INTELLECTUAL PROPERTY LAW GROUP
2033 CLEMENT AVENUE
SUITE 200
ALAMEDA CA 94501

(Current correspondence address of record)

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
1111 FRANKLIN STREET, FIFTH FLOOR
OAKLAND, CA 94607

UNITED STATES PATENT AND TRADEMARK OFFICE

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

A PATENT LAWYER CORP, PLC
R. William Graham
22 S St. Clair Street
Dayton, OH 45402

MAILED

AUG 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Gary L. Woodbury	:	
Application No. 10/044,525	:	DECISION ON PETITION
Filed: January 11, 2002	:	TO WITHDRAW
Attorney Docket No. GWD 001P2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 10, 2009.

The request is **APPROVED**.

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

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

All future correspondence will be directed to the first named inventor Gary L. Woodbury at the address indicated below.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Gary L. Woodbury**
10393 North State Line Road
Union City, OH 45390

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/044,525	01/11/2002	Gary L. Woodbury	GWD 001 P2

CONFIRMATION NO. 2817

POWER OF ATTORNEY NOTICE

25179
A PATENT LAWYER CORP, PLC
R WILLIAM GRAHAM
22 S ST CLAIR ST
DAYTON, OH 45402

OC000000037373557

Date Mailed: 08/14/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/10/2009.

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

/tswilliams/

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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

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

COPY MAILED

NOV 14 2003

OFFICE OF PETITIONS

In re Application of
Mark A. Kirkpatrick
Application No. 10/044,585
Filed: October 23, 2001
Attorney Docket No. 60027.0071US01

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed August 18, 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 15, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of February 19, 2004 accompanies this decision on petition.

There is no indication that a reply to the non-final Office action of July 29, 2003 has been filed. Accordingly, a shortened statutory period of three (3) months for reply to the non-final Office action of July 29, 2003 is restarted with the mailing date of this decision. Extensions of time pursuant to the provisions of 37 CFR 1.136(a) are permitted. Failure to timely reply within the period restarted by this decision will result in the abandonment of this application.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being returned to Technology Center Art Unit 2682 to await a reply to the non-final Office action mailed July 29, 2003, the period of which is restarted to run from the mailing date of this decision on petition as noted above.

Sherry D. Brinkley

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

JUL 2 8 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

TERRY MCHUGH
LAW OFFICES OF TERRY MCHUGH
101 FIRST STREET – PMB 560
LOS ALTOS, CA 94022

In re Application of
MCLAUGHLIN et al
Application No. 10/044,658
Filed: August 8, 2002

For: **SYSTEM AND METHOD FOR CONTROLLING A FILTER TO ENHANCE SPEAKERPHONE PERFORMANCE**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on May 7, 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.

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

Cc:
Marger Johnson McCollom PC
1030 SW Morrison
Portland, Oregon 97205

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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FEB 16 2010

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

In re Application of	:	
Brian C. Barnes et al	:	
Application No. 10/044,667	:	DECISION ON PETITION
Filed: January 11, 2002	:	
Attorney Docket No.	:	
2000.057000/TT4090		

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 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 the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed June 30, 2009, is accepted as having been unintentionally delayed.

Petitioner is encouraged to note the below regarding the request for waiver of the required petition fee under 37 CFR 1.137(b).

MPEP 711.03 (c) states that:

[T]he petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

Further, a review of the written record indicates no irregularity in the mailing of the Notice of Allowance on June 30, 2009.

In view of the above, the request for waiver of the petition fee paid on November 19, 2009, is dismissed.

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.

/KOC/
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

RAYTHEON COMPANY
PATENT DOCKET ADMINISTRATION
P.O. BOX 902 E04/N119
EL SEGUNDO, CA 90245

COPY MAILED

JUN 1 5 2004

OFFICE OF PETITIONS

In re Application of
David D. Crouch et al
Application No. 10/044,691
Attorney Docket No. PD-01W080

ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed October 3, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 4, 2004.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on June 4, 2004.

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

The application file is being forwarded to Technology Center AU 2874 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW LLP
8TH FLOOR
TWO EMBARCADERO CENTER
SAN FRANCISCO, CA 94111

COPY MAILED
FEB 0 9 2006
OFFICE OF PETITIONS

In re Application of :
Thomas R. Cech, et al. :
Application No. 10/044,692 :
Filed: January 11, 2002 :
Attorney Docket No. 015389-002640US :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 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 April 21, 2005, which set a shortened statutory period for reply of three (3) months. A two-months extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on September 22, 2005.

The Notice of Appeal filed on September 20, 2005 was improper. Accordingly, the Notice of Appeal will not be entered and the fee submitted with the Notice of Appeal will be refunded to applicant's deposit account.

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

The petition satisfies the requirement of 37 CFR 1.137 (b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed November 10, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 1600, Art Unit 1642 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

cc: J. Michael Schiff
Geron Corporation
230 Constitution Drive
Menlo Park, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/294,924	05/31/2001	Stephen W. Blessin	00-691LUS

CONFIRMATION NO.

OC000000016306641

719
CATERPILLAR INC.
100 N.E. ADAMS STREET
PATENT DEPT.
PEORIA, IL 616296490

Date Mailed: 06/16/2005

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **01/11/2002,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

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

The non-provisional application number is **11/089,590.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(703) 308-1202

PART 2 - OFFICE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/26/07

TO SPE OF : ART UNIT 3726

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/044743** Patent No.: **7266879**

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

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

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

See Amend - Spec

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

11/1/07

DAVID P. BRYANT
SUPERVISORY PATENT EXAMINER
SPE

3726
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

SAND & SEBOLT
4801 DRESSLER RD., N.W.
SUITE 194
CANTON, OH 44718

COPY MAILED

MAY 0 5 2003

OFFICE OF PETITIONS

In re Application of :
Kumud Shah :
Application No. 10/044,746 : NOTICE
Filed: January 11, 2002 :
Attorney Docket No. 1002-MB :

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**.

The file does not indicate a change of address has been submitted, although the address given on the Notification of Loss of Small Entity Status 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 Notification of Loss of Small Entity Status; however, the Office will mail all future correspondence solely to the address of record.

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 1733.

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

cc: SAND & SEBOLT
AEGIS TOWER
4940 MUNSON STREET NW
SUITE 1100
CANTON, OH 44718-3615

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.
10/044,767	01/10/2002	Mark Andrew Mattox	049322-0104	8331

22428 7590 07/31/2003

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

EXAMINER
CARRILLO, BIBI SHARIDAN

ART UNIT	PAPER NUMBER
1746	

DATE MAILED: 07/31/2003

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 13

Foley & Lardner
Suite 500
3000 K Street, NW
Washington, DC 20007

COPY MAILED

JUL 3 1 2003

OFFICE OF PETITIONS

In re Application of	:DECISION GRANTING PETITION
Mark Andrew Mattox	:UNDER 37 CFR 1.137(b) AND
Application No. 10/044,767	:NOTICE RESETTING PERIOD FOR
Filed: January 10, 2002	:REPLY TO NONFINAL OFFICE
Attorney Docket No. 049322-0104	:ACTION

This is a decision on the petition, filed June 26, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on August 14, 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 USPTO of the filing of a counterpart application in a foreign country or under a multinational treaty that requires publication of applications eighteen 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 Office of a foreign filing must be accompanied by:

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

(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 17, 2003, was mailed on April 11, 2003.

There is no indication that a reply to the Final Office action of April 1, 2003 has been filed. Accordingly, a shortened statutory period of three (3) months for reply to the Final Office action of April 1, 2003 is restarted with the mailing date of this decision. Extensions of time pursuant to the provisions of 37 CFR 1.136(a) are permitted. Failure to timely reply within the period restarted by this decision will result in the abandonment of this application.

This application is being forwarded to Technology Center Art Unit 1746 to await a reply to the Final Office action of April 1, 2003, the period of which is restarted to run from the mailing date of this decision on petition as noted above.

Any inquiries concerning this decision may 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

Frances Hicks
Lead Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

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OFFICE OF PETITIONS

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

In re Application of
Loskatoff et al.
Application No.10/044,796
Filed: January 11, 2002
Attorney Docket No. 13511.1USU1

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed August 22, 2002, under 37 C.F.R. §1.47(a).

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 January 11, 2002, without an executed oath or declaration. Accordingly, on February 22, 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 22, 2002.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a four (4) month extension of time was also submitted.

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 requirements (1) and (2).

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. Rule 47 applicant indicates, Naida M. Luskutoff refused to sign the declaration in a telephone conversation. However, rule 47 applicant did not indicate a copy of the

application papers (specification, including claims, drawings, and oath or declaration) was presented to the non-signing inventor. All that is indicated is that the declaration was presented. 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).

As to item (2), although rule 47 applicant submitted a declaration with the petition, the declaration does not comply with 37 CFR 1.63. Specifically, Jennifer Rohr made changes to the declaration without initialing and dating the changes.

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 she refused to sign. A declaration that corrects the defect outlined above must also be submitted.

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

By mail:	Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA 22202

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

E. Shirene Willis for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 10
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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

In re Application of
Loskatoff et al.
Application No.10/044,796
Filed: January 11, 2002
Attorney Docket Number: 13511.1USU1
Title of Invention: SEMEN EXTENDER COMPOSITION AND METHODS FOR MANUFACTURING AND USING

ON RENEWED PETITION

This is in response to the renewed petition under 37 CFR 1.47(a), filed November 13, 2002.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This application 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 (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GOTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK, NY 10016-0601

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NOV 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Michael Tombs, et al.	:	
Application No. 10/044,798	:	ON PETITION
Filed: January 10, 2002	:	
Attorney Docket No. 211/New	:	

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

The petition is **GRANTED.**

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed February 17, 2005, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. An Advisory action was mailed September 7, 2005 indicating that the reply filed on August 17, 2005 failed to place the application in condition for allowance. Accordingly, the application became abandoned on August 18, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1,500; 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.

The application matter is being referred to Technology Center 1700, Art Unit 1734 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GOTTLIEB RACKMAN & REISMAN, PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK, NY 10016-0601

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OFFICE OF PETITIONS

In re Application of	:	
Michael Tombs, et. al.	:	
Application No. 10/044,798	:	ON PETITION
Filed: January 10, 2002	:	
Attorney Docket No. 211/New	:	

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

The petition is **DISMISSED**.

Any further petition to revive 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** a final agency action within the meaning of 5 U.S.C.§ 704.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed;[1] (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks items (1) and (2).

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 from the date of the

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

decision mailed November 14, 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 after midnight on January 14, 2006. See MPEP 1215.04.

In the instant petition, petitioner argues that he was not aware of the advisory action and that a search of the file and his office was conducted, but the advisory action was not found or docketed. Accordingly, petitioner states that it is clear that the advisory action was never received and, therefore, the delay in timely filing a reply was unavoidable.

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).

It is irrelevant here whether or not petitioner received an advisory action. Rather, petitioner must demonstrate why an appeal brief (or an appropriate reply to maintain pendency of this application) was not timely filed within the two month extendable period set in the decision mailed November 14, 2005. The Notice of Abandonment mailed on June 27, 2006 states that this application became abandoned for failure to timely reply to the Office letter dated November 14, 2005, and makes no mention of an advisory action.

Further, petitioner is reminded that he may not rely upon non-receipt of an advisory action to establish that the delay was unavoidable. 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid

abandonment of the application in the absence of a timely and proper appeal. A delay is not "unavoidable" when an applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. See MPEP 711.03(c)(II).

In view of the above, the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). See MPEP 711(c)(II)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

If petitioner cannot provide the evidence required to establish under the 37 CFR 1.137(a) that the delay in providing the required reply to the decision mailed on November 14, 2005 was unavoidable, or simply does not wish to, petitioner should consider filing 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 the 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 $1,500 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 cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further, petitioner should note that the proposed reply required for consideration of a petition to revive must be an appeal brief under 37 CFR 41.37 and the appeal brief fee required by 37 CFR 41.20(b)(2), a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). A courtesy copy of the advisory action mailed November 22, 2005, is enclosed for petitioner's records. Additionally, the amendment filed on August 1, 2006 again fails to place the application in condition for allowance; consequently, petitioner must submit the reply to continue prosecution of this application. See final advisory action attached to this decision.

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

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

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

By Hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

Enclosure: Courtesy copy of the advisory action mailed November 22, 2005.
Final advisory action in response to amendment filed August 1, 2006.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/044,798	TOMBS ET AL.	
	Examiner	Art Unit	
	Brenda A. Lamb	1734	

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

THE REPLY FILED 01 August 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on *26 September 2006*. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims..
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *25-28 and 32-35*.
   Claim(s) objected to: *13,15,18,19,23,24 and 31*.
   Claim(s) rejected: *8-12,14,16,17,20-22,29 and 30*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: Notice of Non-Compliant Amdt under 37 CFR 1.121 is attached.

Continuation of 3. NOTE:
Newly amended claim 9 presents new issues which would require additional considerations under 35 USC 112, second paragraph since it is unclear how the means for lowering the solder surface set forth at lines 7-8 relates to means at line 11-12 which also claims the recited means function to lower solder surface (duplicate claim language ?).
Newly amended claim 25 presents new issues which would require additional considerations under 35 USC 112, second paragraph since it is unclear how the means for lowering the solder surface set forth at lines 6-7 relates to means at line 8-9 which also claims the recited means function to lower solder surface (duplicate claim language ?).
Newly amended claim 32 presents new issues which would require additional considerations under 35 USC 112, second paragraph since it is unclear how the means for lowering the solder surface set forth at lines 8-9 relates to means at line 9-10 which also claims the recited means function to lower solder surface (duplicate claim language ?)
Newly amended claim 14 presents a new issue which would require additional considerations under 35 USC 112, second paragraph since it is unclear what an "upward/y facing edge" encompasses.

It is noted that applicant in the instant amendment has multiple duplicate claims which would require additional considerations under 37 CFR 1.75 and some examples of the duplicate claims are discussed below.
Dependent claim 19 which has been amended to depend on claim 9 presents a new issue which would require additional considerations under 37 CFR 1.75 as being a duplicate of claim 15 which also depends on claim 9 with both claim 19 and claim 15 claiming the member has a honeycomb structure.
Newly amended claim 29 presents a new issue which would require additional considerations under 37 CFR 1.75 as being a duplicate of claim 33.
Newly amended claim 20 presents a new issue which would require additional considerations under 37 CFR 1.75 as being a duplicate of claim 27.
Newly amended claim 9 presents a new issue which would require additional considerations under 37 CFR 1.75 as being a duplicate of claim 28.

It is noted that claims 8,14,19,20,25,29 and 32 have been currently amended yet have not been provided with the proper status identifier as is required under 37 CFR 1.121 and the insertion of claim language in claims 8,14,19,20,25,29 and 32 have not underlined as required under 37 CFR 1.121.It is noted that claim 9 has inserted claim language without underlining as required under 37 CFR 1.121 (see lines 7-8 of claim 9).

Brenda Adele Lamb
Primary Examiner
AU 1734

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,798	01/10/2002	Michael Tombs	211/New	8385

22440 7590 11/22/2005
GOTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK, NY 100160601

EXAMINER
LAMB, BRENDA A

ART UNIT	PAPER NUMBER
1734	

DATE MAILED: 11/22/2005

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

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/044,798	Applicant(s) TOMBS ET AL.	
	Examiner Brenda A. Lamb	Art Unit 1734	

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

THE REPLY FILED 9/26/05 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on *26 September 2005*. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *25-28 and 32-35*.
   Claim(s) objected to: *13,15,18,19,23,24 and 31*.
   Claim(s) rejected: *8-12,14,16,17,20-22,29 and 30*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 3. NOTE: The amendment filed 9/26/2005 has multiple duplicate claims which presents new issues which would require additional considerations under 37 CFR 1.75 and some examples of the duplicate claims are discussed below.

.Newly amended claim 29 presents new issues which would require additional considerations in that claim 29 appears to be now a duplicate of claim 33 and therefore newly amended 29 is objected under 37 CFR 1.75. Newly amended claim 16 presents new issues which would require additional considerations under 37 CFR 1.75 in that claim 16 is a substantial duplicate of claim 29 since the functional recitation that the leads to be soldered are selectively removed between a raised and lowered position fails to structurally further limit and distinguish one apparatus claim from the other.The examiner also notes that claim 28 appears to be a substantial duplicate of newly amended claim 9, claim 11 which depends on newly amended claim 9 appears to be a substantial duplicate of claim 22, dependent claim 17 which depends on newly amended claim 18 appears to be a substantial duplicate of claim 34 and newly amended claim 15 appears a substantial duplicate of claim 35 since the functional recitation that the leads to be soldered are selectively removable between a raised and lowered position fails to structurally further limit and distinguish one apparatus claim from the other thereby requiring additional considerations under 37 CFR 1.75. It is suggested that applicant review claims for duplication of limitations in responding the instant advisory action in order to avoid objections of the claims under 37 CFR 1.75.

Claim 20 presents a new issue under 35 USC 112, second paragraph since claim 20 is improper since the claim ends with a semicolon and unclear whether applicant intended to present additional limitations in claim 20.

Brenda A. Lamb

BRENDA A. LAMB
PRIMARY EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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270 MADISON AVENUE
8TH FLOOR
NEW YORK, NY 10016-0601

COPY MAILED

JAN 0 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael Tombs, et. al.	:	
Application No. 10/044,798	:	ON PETITION
Filed: January 10, 2002	:	
Attorney Docket No. 211/New	:	

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

The petition is **DISMISSED**.

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

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months from the date of the decision mailed November 14, 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 after midnight on January 14, 2006. *See* MPEP 1215.04.

Further, petitioner should note that the proposed reply required for consideration of a petition to revive must be an appeal brief under 37 CFR 41.37 and the appeal brief fee required by 37 CFR 41.20(b)(2), a Request for Continued Examination and submission (37 CFR 1.114), or the filing

of a continuing application under 37 CFR 1.53(b). Additionally, the amendment filed on December 27, 2006 again fails to place the application in condition for allowance; consequently, petitioner must submit the reply to continue prosecution of this application. See Advisory Action and Notice of Non-compliant Amendment attached to this decision.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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

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

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Courtesy Copy of the Advisory Action
Notice of Non-compliant Amendment

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/044,798	Applicant(s) TOMBS ET AL.	
	Examiner Brenda A. Lamb	Art Unit 1792	

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

THE REPLY FILED 27 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on *9/26/2006*. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *25-28 and 32-35*.
   Claim(s) objected to: *13,15,18,19,23,24 and 31*.
   Claim(s) rejected: *8-12,14,16,17,20-22,29 and 30*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: Notice of Non-compliant Amdt under 37 1.121 is attached.

Brenda A Lamb
Primary Examiner
Art Unit: 1792

Continuation of 3. NOTE: Newly amended claim 9 presents new issues which would require additional considerations under 35 USC 112, second paragraph since it is unclear how the means for lowering the solder surface set forth at lines 7-8 relates to means at line 11-12 which also claims the recited means function to lower solder surface (duplicate claim language ?).
Newly amended claim 25 presents new issues which would require additional considerations under 35 USC 112, second paragraph since it is unclear how the means for lowering the solder surface set forth at lines 6-7 relates to means at line 8-9 which also claims the recited means function to lower solder surface (duplicate claim language ?).
Newly amended claim 32 presents new issues which would require additional considerations under 35 USC 112, second paragraph since it is unclear how the means for lowering the solder surface set forth at lines 8-9 relates to means at line 9-10 which also claims the recited means function to lower solder surface (duplicate claim language ?)
Newly amended claim 14 presents a new issue which would require additional considerations under 35 USC 112, second paragraph since it is unclear what an "upward/y facing edge" encompasses.

It is noted that applicant in the instant amendment has multiple duplicate claims which would require additional considerations under 37 CFR 1.75 and some examples of the duplicate claims are discussed below.
Dependent claim 19 which has been amended to depend on claim 9 presents a new issue which would require additional considerations under 37 CFR 1.75 as being a duplicate of claim 15 which also depends on claim 9 with both claim 19 and claim 15 claiming the member has a honeycomb structure.
Newly amended claim 29 presents a new issue which would require additional considerations under 37 CFR 1.75 as being a duplicate of claim 33.
Newly amended claim 20 presents a new issue which would require additional considerations under 37 CFR 1.75 as being a duplicate of claim 27.
Newly amended claim 9 presents a new issue which would require additional considerations under 37 CFR 1.75 as being a duplicate of claim 28.

It is noted that claims 8,14,19,20,25,29 and 32 have been currently amended yet have not been provided with the proper status identifier as is required under 37 CFR 1.121 and the insertion of claim language in claims 8,14,19,20,25,29 and 32 have not underlined as required under 37 CFR 1.121.It is noted that claim 9 has inserted claim language without underlining as required under 37 CFR 1.121 (see lines 7-8 of claim 9).

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No. 10/044,798	Applicant(s) TOMBS ET AL.	
	Examiner Brenda A. Lamb	Art Unit 1792	

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

The amendment document filed on 27 December 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other _____.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☐ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: *Inserted claim language in claims 8-9,14,19-20,25,29 and 32 needs to be underlined.*.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

_____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

   Failure to timely respond to this notice will result in:
   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

_____ Legal Instruments Examiner (LIE), if applicable

_____ Telephone No.

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ALEXANDRIA, VA 22313-1450
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Paper No. 10

Ken Fisher
5528 Vineland Avenue
North Hollywood, CA 91601

COPY MAILED

JAN 07 2004

OFFICE OF PETITIONS

In re Application of :
Seymour Levine :
Application No. 10/044,802 :
Filed: January 11, 2002 :
Attorney Docket No. n/a :

ON PETITION

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

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 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 above-identified application became abandoned on June 14, 2003.

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) (2).

As to item (2), Effective November 2, 2003, the petition fee (for a small entity) as set forth in 37 CFR 1.17(m) is $665. The petition filed in connection with the above-identified application was accompanied by payment of a fee in the amount of $650. Accordingly, an additional fee of $15 is required and must be submitted.

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

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

By mail: Mail Stop Petitions
PO Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-6906
Attn: Office of Petitions

By hand: Customer Service Window
Crystal Plaza 2, Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202

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

Latrice Bond

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

cc: Ken Fisher
5521 Cleon Avenue
North Hollywood, CA 91601

UNITED STATES 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

KEN FISHER
5521 CLEON AVE.
NORTH HOLLYWOOD, CA 91601

COPY MAILED

JUN 1 5 2004

OFFICE OF PETITIONS

In re Application of	:	
Seymour Levine et al	:	
Application No. 10/044,802	:	ON PETITION
Filed: January 11, 2002	:	
For: LOW COST INERTIAL NAVIGATOR	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 26, 2004, to revive the above-identified application.

The petition is **GRANTED**.

As authorized, the $15.00 fee for the petition under 37 CFR 1.137(b) will be charged to petitioner's Credit Card.

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

The application file is being forwarded to Technology Center AU 3663.

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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SEP 12 2005

OFFICE OF PETITIONS

In re Application of
Datta, et al.
Application No.: 10/044,814
Filed: January 11, 2002
Attorney Docket No.: 14411HUUS02U
(NORT10-00073)
For: CHECK POINTING OF PROCESSING CONTEXT OF NETWORK ACCOUNTING COMPONENTS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed August 13, 2002 (certificate of mailing date August 5, 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 11, 2002 without an executed oath or declaration. Accordingly, on February 19, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, a filing fee, and a surcharge for their late filing.

In response, on August 13, 2002 (certificate of mailing date August 5, 2002), a petition for a four month extension of time and required fee, a declaration executed by 4 of 5 joint inventors, the surcharge, and application filing fee were filed.

The petition is signed by Attorney Robert P. McCutcheon and accompanying exhibits show that non-signing joint inventor Jeffrey Rogers was successfully mailed a copy of the application and declaration for the above-identified application, but did not respond to the written and telephone message requests that he sign the declaration for the patent application.

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) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The citizenship of signing inventor Utpal Datta is not included on the declaration. Mr. Datta's citizenship is listed in cursive writing as "Permanent Resident". The country, which was typewritten "USA" has been crossed out.

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).

The citizenship of each inventor **must** be included on the oath or declaration. As listing the citizenship for each inventor is a statutory requirement under 35 U.S.C. 115, it cannot be waived.

Fortunately, the deficiencies or inaccuracies relate to a signing inventor. Thus, pursuant to 37 CFR 1.67(a)(2), Mr. Datta may correct his information on a supplemental declaration identifying the entire inventive entity and their information, but signed only by Mr. Datta.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of the non-signing inventors is REQUIRED. See MPEP 409.03(a).

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

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

By hand:
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE,
SUITE 1100
MILWAUKEE WI 53202

COPY MAILED

AUG 28 2006

OFFICE OF PETITIONS

In re Patent of	:	
Arnold et al.	:	
Application No. 10/044,824	:	DECISION
Filed: January 10, 2002	:	ON PETITION
Attorney Docket Number:	:	
4620-00006	:	

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed November 7, 2005. The delay in treating this petition is regretted.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed January 24, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). Applicant filed a reply on April 22, 2005; however, the reply failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action, mailed May 3, 2005. No timely and proper reply having been received, the application became abandoned April 25, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Applicant has filed a Request for Continued Examination ("RCE") and a submission in the form of an Amendment.

This application is being returned to Technology Center 1743 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

#9 DW

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

JAN 19 2005

MAILED

JAN 19 2005

OFFICE OF THE DIRECTOR
TC 3600

Calfee Halter & Griswold, LLP
800 Superior Avenue
Suite 1400
Cleveland, OH 44114

In re Application of
Gerald E. Fought
Application No. 10/044,826
Filed: October 19, 2001
For: WHEELCHAIR SUSPENSION HAVING PIVOTAL MOTOR MOUNT

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on August 16, 2004.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a response to the Office action mailed April 29, 2003, which set a three-month shortened statutory period. The application became abandoned at midnight on July 29, 2003, and a Notice to that effect was mailed on November 18, 2003.

Petitioner contends that a response was filed on October 29, 2003 by facsimile transmission. In support thereof, petitioner submits, *inter alia.*, a copy of a response and request for extension of time, each bearing a Certificate of Transmission signed by Nenad Pejic and dated October 29, 2003. Petitioner also has submitted a copy of a USPTO return facsimile receipt, dated October 29, 2003, that identifies the application by serial number. Since the USPTO return facsimile receipt does not also identify the type of response that was filed (e.g., amendment to the Office action of April 29, 2003, and request for three-month extension of time), it cannot be accepted as sufficient evidence of a timely filing by facsimile transmission. Thus, petitioner must rely on the Certificate of Transmission as evidence of a timely filing.

Petitioner's evidence of a timely filing based on a Certificate of Transmission is considered to be insufficient. In this regard, 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), by the person who signed the certificate.

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, in this instance Nenad Pejic.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/rwg: 1/10/05

UNITED STATES PATENT AND TRADEMARK OFFICE

#11

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

Calfee Halter & Griswold, LLP
800 Superior Avenue
Suite 1400
Cleveland, OH 44114

MAILED
FROM DIRECTORS OFFICE
MAR 29 2005
TECHNOLOGY CENTER 3600

In re Application of :
Gerald E. Fought :
Application No. 10/044,826 :
Filed: October 19, 2001 :
For: WHEELCHAIR SUSPENSION HAVING PIVOTAL MOTOR MOUNT

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 received in the United States Patent and Trademark Office on February 7, 2005.

The petition is **GRANTED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a response to the Office action mailed April 29, 2003, which set a three-month shortened statutory period. The application became abandoned at midnight on July 29, 2003, and a Notice to that effect was mailed on November 18, 2003.

A petition to withdraw holding of abandonment was filed on August 16, 2004. That petition was dismissed in a decision mailed January 19, 2005 wherein it was held that the petition lacked 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.

The renewed petition includes a statement by Nenad Pejic which attests to the personal knowledge of transmitting the response on the date indicated on the Certificate of Facsimile Transmittal. This is sufficient evidence of a timely response.

Since a timely response to the Office action was filed, the holding of abandonment is withdrawn and the application is restored to pending status. The application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, and then to the Examiner for prompt action on the merits of the application.

Stephen N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/dgd: 3/24/05

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 15

MAIL

JUL 02 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON MA 02205

In re Application of
Stephen M. Dye :

Application No. 10/044,834 :
Filed: January 11, 2002 :
For: MOBILE VIRTUAL NETWORK :
OPERATOR PLATFORM AND METHOD OF :
AND SYSTEM FOR USING SAME :

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 May 7, 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.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

CC: ESEMDE, Inc.
8000 North Federal Highway #202
Boca Raton, FL 33487-1620

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Edward J. Biskup
Reising, Ethington, Barnes, Kisselle,
Learman & McCulloch, P.C
P.O. Box 4390
Troy MI 48099-4390

COPY MAILED

NOV 04 2009

OFFICE OF PETITIONS

In re Application of :
Achint P. Mathur et al. :
Application No. 10/044,870 : NOTICE
Filed: January 10, 2002 :
Attorney Docket No. P3007.002 TRANTER :

This is a notice regarding your request filed September 9, 2009, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Matthew J. Scmidt
Reising Ethington P.C.
755 W. big Beaver road, Suite 1850
Troy, Michigan 48084

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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FEB 19 2008

NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

In re Application of	:	
Chein-Hsin **LIN et al.**	:	
Application No. 10/044,876	:	DECISION ON PETITION
Filed: October 26, 2001	:	
Attorney Docket No. **US018143**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 08, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before August 16, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed May 16, 2006, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 17, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

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

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/09/10

TO SPE OF : ART UNIT 2458

SUBJECT : Request for Certificate of Correction for Appl. No.: 10044882 Patent No.: 7039705

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE

2458
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/18/05

TO SPE OF : ART UNIT 1744

SUBJECT : Request for Certificate of Correction on Patent No.: 6800140 B2

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

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

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

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

John Kim

SPE

1744

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.

MCGARRY BAIR PC
171 MONROE AVENUE, N.W.
SUITE 600
GRAND RAPIDS, MI 49503

COPY MAILED
JUL 25 2006
OFFICE OF PETITIONS

In re Patent No. 6,800,140	:	DECISION ON REQUEST
Samuel Hansen	:	FOR RECONSIDERATION OF
Issue Date: October 5, 2004	:	PATENT TERM ADJUSTMENT
Application No. 10/044,890	:	and
Filed: January 11, 2002	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 71189-1393	:	CERTIFICATE OF CORRECTION
	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. §154 AND 37 C.F.R. § 1.705(D)," filed October 5, 2004. Patentee requests that the patent term adjustment indicated in the patent (as shown in the Issue Notification) be corrected from one hundred fifty-three (153) days to two hundred fifty-three (253) days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred fifty-three (253) days.

On October 5, 2004, the above-identified application matured into U.S. Patent No. 6,800,140. The instant request for reconsideration filed October 5, 2004 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 153 days. Patentee disputes the reduction of 100 days due to "Workflow-Drawings finished" as no drawings were filed after the mailing of the notice of allowance. Patentee states that the drawings were accepted by the examiner and all other formalities were in compliance.

A review of the PALM calculations for this application reveals that the initial determination of PTA of 253 days was reduced by 100 days for applicant's submission of drawings after the mailing of the notice of allowance. See 37 C.F.R. § 1.704(c)(10). However, a review of the application record supports a conclusion that no drawings (or any other paper, aside from the instant petition) were filed in this application after the mailing of the notice of allowance. As stated in the Notice of Allowability, the drawings filed February 19, 2004 (with a response after non-final) were accepted by the Examiner.

In view thereof, the patent term adjustment indicated in the patent should have been two hundred fifty-three (253) days.

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. This fee is required and will not be refunded. No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **TWO HUNDRED FIFTY-THREE (253)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOV - 1 2004

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

In re Application of	:
Kevan M. Shokat et al	:
Serial No.: 10/044,967	: PETITION DECISION
Filed: January 15, 2002	:
Attorney Docket No.: 051538-5001-01	:

This is in response to the petition under 37 CFR 1.59(b), filed July 27, 2004, to expunge a Information from the above identified application..

Petitioner requests that a letter submitted with the response of May 29, 2002, 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 letter was submitted with a preliminary amendment, specification, substitute specification and drawings and was inadvertently included with the papers. The letter is a confidential communication between applicants' attorneys and other parties. The original letter was scanned into IFW and cannot be physically removed at this time. A copy, however, is being returned with this decision. The document has been closed to public access.

The petition is **GRANTED** to the extent indicated.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number.

Bruce M. Kisliuk
Director, Technology Center 1600

SPE S. Coronin

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/17/06

TO SPE OF : ART UNIT 3747

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/044972 Patent No.: 6684839

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: _____

Stephen K. Cronin
Primary Examiner
SPE 3747

SPE

3747
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 24, 2006

TO SPE OF : ART UNIT 2614 Charles C Chow

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/045,043 Patent No.: 6947722B2

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

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

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

_____
Certificates of Correction Branch

703-308-9390 ext. _____

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: <1> Do not enter the "OTHER PUBLICATION", due to the lack of information for filing date "MAY 23, 2002" of the Chinese Patent, 02120414.1.
<2> The correction for "5/1992" is O.K.
<3> The correction for ";", "," to "." is O.K. C.C. 6/19/2006.

EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
SPE

2618
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PILLSBURY WINTHROP SHAW PITTMAN LLP
P. O. BOX 10500
McLEAN, VA 22102

COPY MAILED

MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of :
James Patrick Goodwin et al :
Application No. 10/045,064 : DECISION ON PETITION
Filed: January 15, 2002 :
Attorney Docket No. 042846-0313079 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 5, 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 October 3, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed July 3, 2006. Accordingly, the date of abandonment of this application is October 4, 2006. A Notice of Abandonment was mailed on November 9, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

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.

RAYMOND A. JOAO, ESQ.
122 BELLEVUE PLACE
YONKERS NY 10703

COPY MAILED

NOV 13 2008

In re Application of	:	
Raymond Anthony Joao	:	DECISION ON APPLICATION
Application No. 10/045,080	:	FOR
Filed: January 15, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. RJ470	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed September 8, 2008. Applicants request that the initial determination of patent term adjustment be corrected from three hundred four (304) days to one thousand one hundred thirty (1130) days.

The application for patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is one thousand twenty-five **(1025)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On July 11, 2008, 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 304 days. The instant application for patent term adjustment was timely filed on September 8, 2008[1]. Applicants assert that their response to the restriction requirement filed October 14, 2006 was fully responsive. Accordingly, applicants maintain that the reduction of 426 days entered pursuant to 37 CFR 1.704(c)(7) for the filing of a duplicate of the response on December 14, 2007 is not warranted.

[1] PALM records indicate that the Issue Fee was received on September 10, 2008.

Further, applicants argue that a period of adjustment of 399 days for Office delay should be entered for the period from February 15, 2007, the date four months after an election was filed on October 14, 2006, to March 19, 2008, the date of mailing of a restriction requirement.

Applicants' arguments have been considered, and found persuasive to an extent. The entry of a period of reduction of 426 days for filing a response on December 14, 2007 to correct an omission in the response filed on October 14, 2006 is not warranted and is being removed. 37 C.F.R. §1.704(c)(7) provides that:

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

The record supports a conclusion that the response filed October 14, 2006 did not contain an omission. In response to the Notice of Informal or Non-compliant Amendment mailed December 6, 2007, applicant resubmitted the response with an argument that there was no omission. Further, in the restriction requirement mailed March 19, 2008, the examiner acknowledged that applicants were correct that there was no omission. As there was no omission, entry of the period of reduction of 426 days, pursuant to 37 CFR 1.704(c)(7), is being removed.

Moreover, in response to the election filed October 14, 2006, the Office took action within the meaning of 37 CFR 1.702(a)(2) and 1.703(a)(2) on December 6, 2007. However, this was not within four months. The Office mailed an action under 35 U.S.C. 132 on December 6, 2007, four months and 295 days later. Accordingly, a period of adjustment of 295 days has been entered for Office delay.

However, no further correction of the patent term adjustment calculation is required. In response to the election filed December 14, 2007, the Office took action within the meaning of 37 CFR 1.702(a)(2) and 1.703(a)(2), within four months by mailing an action under 35 U.S.C. 132 on March 19, 2008. The fact that the Office mailed a restriction requirement on March 19, 2008, does not negate the fact that the Office took action

within the meaning of 35 U.S.C. 132 on December 6, 2007. Accordingly, the entry of a period of adjustment of 295 days, not 399 days as argued by applicants, is warranted.

Further, the entry of a period of reduction of 1 day in association with the request for continued examination (RCE) filed on March 1, 2006 is correct. The final Office action was mailed on November 30, 2005. Applicants took three months and 1 day to file a response. It is well-established that the three-month period ended on February 28, 2006. As stated in MPEP 710.02,

> For example, reply to an Office action with a 3-month shortened statutory period dated November 30 is due on the following February 28 (or 29 if it is a leap year), while a reply to an Office action dated February 28 is due on May 28 and not on the last day of May. Ex parte Messick, 7 USPQ 57 (Comm'r Pat. 1930).

Moreover, applicants' attention is further directed to 37 CFR 1.703(f), which provides that "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000). Thus, the fact that the RCE received March 1, 2006, included a certificate of mailing dated February 27, 2006, has no effect on the calculation of patent term adjustment.

For all of these reasons, pursuant to 37 CFR 1.704(b), the period of reduction of 1 day was properly entered.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is ONE THOUSAND TWENTY-FIVE **(1025)** 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 Data Management has been advised of this decision. The application is thereby 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 if applicable, for the Office taking in excess of three years to issue the patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Wednesday

Date: 11/12/2008

PALM INTRANET

Time: 14:36:22

PTA Calculations for Application: 10/045080			
Application Filing Date:	01/15/2002	PTO Delay (PTO):	731
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	427
Post-Issue Petitions:	0	Total PTA (days):	1025
PTO Delay Adjustment:	721		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
77	11/12/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	295		
76	11/07/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	426		
66	07/11/2008	MAIL NOTICE OF ALLOWANCE			
65	06/20/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
64	05/22/2008	MISCELLANEOUS INCOMING LETTER			
51	06/06/2008	DOCUMENT VERIFICATION			
50	06/06/2008	NOTICE OF ALLOWABILITY			
49	05/22/2008	DATE FORWARDED TO EXAMINER			
48	05/19/2008	AMENDMENT AFTER FINAL REJECTION			
47	05/20/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
46	05/16/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
45	05/05/2008	MAIL FINAL REJECTION (PTOL - 326)			
44	05/01/2008	FINAL REJECTION			
43	04/11/2008	DATE FORWARDED TO EXAMINER			
42	03/26/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
41	03/19/2008	MAIL RESTRICTION REQUIREMENT			
40	03/14/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
39	03/04/2008	CASE DOCKETED TO EXAMINER IN GAU			
38	01/08/2008	DATE FORWARDED TO EXAMINER			
37	12/14/2007	RESPONSE TO ELECTION / RESTRICTION FILED		426	34
36	12/06/2007	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
35	08/08/2007	DATE FORWARDED TO EXAMINER			

34.1	10/14/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
34	10/14/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
33	10/12/2006	MAIL RESTRICTION REQUIREMENT			
32	10/10/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
31	07/30/2006	MISCELLANEOUS INCOMING LETTER			
30	08/02/2006	DATE FORWARDED TO EXAMINER			
29	07/30/2006	RESPONSE AFTER NON-FINAL ACTION			
27	05/18/2006	MAIL NON-FINAL REJECTION			
26	05/15/2006	NON-FINAL REJECTION			
25	03/04/2006	DATE FORWARDED TO EXAMINER			
24	03/01/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
23	03/04/2006	DATE FORWARDED TO EXAMINER			
22	03/01/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		1	19
21	03/04/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
20	03/01/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
19	11/30/2005	MAIL FINAL REJECTION (PTOL - 326)			
18	11/28/2005	FINAL REJECTION			
17	09/16/2005	DATE FORWARDED TO EXAMINER			
16	09/13/2005	RESPONSE AFTER NON-FINAL ACTION			
15	06/17/2005	MAIL NON-FINAL REJECTION			
14	06/13/2005	NON-FINAL REJECTION			
13	04/22/2005	DATE FORWARDED TO EXAMINER			
12	04/06/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
11	03/15/2005	MAIL RESTRICTION REQUIREMENT	731		-1
10	03/09/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
8	07/28/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
7	07/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
6	05/03/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	03/01/2002	APPLICATION DISPATCHED FROM OIPE			
4	02/25/2002	APPLICATION IS NOW COMPLETE			
2	01/25/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/15/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

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Paper No. 16

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FEB 25 2004

OFFICE OF PETITIONS

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of :
Shoji Hayashida :
Application No. 10/045,094 :
Filed: January 15, 2002 :
Attorney Docket No. 826.1034C2D2D2D :

ON PETITION

This is a decision on the petition, filed February 12, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 6, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2876 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Blaney Harper
Jones, Day, Reavis & Pogue
51 Louisiana Avenue, NW
Washington, DC 20001

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OCT 2 2 2002

OFFICE OF PETITIONS

In re Application of :
Majid Syed :
Application No. 10/045,120 : DECISION ON PETITION
Filed: October 26, 2001 :
Attorney Docket No. 708034-605-004 :

This is a decision on the "Petition under 37 C.F.R. § 1.181," filed June 4, 2002. This petition is properly treated as a petition under 37 C.F.R. § 1.53(e)(2). Petitioner requests that the Office accord the above-identified application a filing date of October 26, 2001, with page 5 as a part of the original application disclosure.

Application papers in the above-identified application were filed on October 26, 2001. However, on March 15, 2002, the Office of Initial Patent Examination mailed applicant a "Notice to File Corrected Application Papers." Applicant was notified that the application papers had been accorded a filing date; however, page 5 of the specification appeared to have been omitted. In addition, applicant was required to submit claims commencing on a separate sheet and substitute drawings in compliance with 37 CFR 1.84.

In response, applicant timely filed the instant petition (and petition fee). Applicant contends that page 5 of the specification was deposited in the United States Patent and Trademark Office with the nonprovisional application papers on October 26, 2001. In support thereof, applicant submitted *inter alia* a copy of their return postcard from the USPTO. Petitioner also submitted a copy of page 5 as originally filed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on October 26, 2001; 2) it specifically identifies the items being filed, including "43 pages of specification" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including the 43 pages of specification, were filed on October 26, 2001.

The application papers already considered received in the Office on October 26, 2001, were reviewed along with the missing page of specification submitted on petition. These papers together constitute the items described on the postcard receipt, including 43 pages of specification. Petitioner has shown that p. 5 was among the items present in the application on the date of deposit and should be included in the original application disclosure.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition under § 1.53(e)(2), the petition fee is being refunded to Deposit Account No. 10-1202, as authorized.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of October 26, 2001, using the application papers received in the Office and presently accorded that date; and page 5 of the specification resubmitted on petition filed June 4, 2002; and
- processing of the replies, claims and substitute drawings, filed June 4, 2002 in response to the "Notice to File Corrected Application Papers."

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.

Christina L. Donnell

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. 12

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

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AUG 0 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Driggs et al.	:	
Application No. 10/045,132	:	ON PETITION
Filed: October 23, 2001	:	
Attorney Docket No. 20174C-002910US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 16, 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 8. 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on February 9, 2004. A Notice of Abandonment was mailed on June 14, 2004.

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

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

The file is now being forwarded to Technology Center 3700 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** should be directed to the undersigned at (571) 272-3282.

Liana Chase

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

cc: GREGORY HEINKEL
7100 SHORELINE COURT
SOUTH SAN FRANCISCO, CA 94080

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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DEC 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Kasahara et al.	:	DECISION ON PETITION
Application No. 10/045,178	:	UNDER 37 CFR 1.137(b)
Filed: January 11, 2001	:	
Attorney Docket No. 06666-022002	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 9, 2005, to revive the above-identified application.

This application became abandoned for failure to reply properly and timely to the final Office Action mailed on October 6, 2004, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on January 7, 2005. A Notice of Abandonment was mailed on June 16, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an RCE and paid the requisite fees. However, 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. 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

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

This matter is being referred to Technology Center Art Unit 1632.

Telephone inquiries should 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OCT - 1 2004

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

In re Application of	:
Johan A. M. Grooten et al	:
Serial No.: 10/045,185	: PETITION DECISION
Filed: October 18, 2001	:
Attorney Docket No.: DECLE1.001DV1	:

This is in response to the petition under 37 CFR 1.181, filed June 28, 2004, for withdrawal of abandonment of the above identified application based on failure to receive an Office action. .

A review of the file history shows that the examiner mailed an Office action to applicants on November 3, 2003, 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 June 23, 2004. Applicants state that the Office action was never received and provide a statement that Office records are incorrect in that an old address was used in this application which is associated with Customer No. 20995. A review of the application papers, as filed shows that the declaration contains no Power of Attorney or Customer No., or correspondence address. One page of the transmittal letter requests the Office to use Customer No. 20995 as the correspondence address. For unknown reasons this was not done and the address associated with this application was taken from other papers in the file all of which contain applicants' old correspondence address. 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 associated with the correct Customer No., and the application will then 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, 703-872-9306.

Jasemine C. Chambers
Director, Technology Center 1600

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October 30, 2007

Edwin H. Taylor
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

Patent No: 7,023,874 B2
Application No: 10/045191
Applicant: Jerrold V. Hauck, et al.
Issued: April 4, 2006
Title: **DISTRIBUTED ARBITRATION ON A FULL DUPLEX BUS**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322.

Inspection of the column 7, line 11, of the application for the above patent reveals that the error mentioned in your request is in fact printed in accordance with the record in the Patent and Trademark Office, as passed to issue by the examiner. There being no fault on the part of the Patent and Trademark Office, it has no authority to issue a certificate of correction under the provision of 1.322.

In view of the foregoing your request in this matter are hereby **denied**.

However, further consideration will be given to these matters, upon receipt of a request for certificate of correction under the provision of 1.323, accompanied by the appropriate fee, which is presently $100.

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

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COMMISSIONER FOR PATENTS
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Paper No. 8

TROPIAN INC.
20813 STEVENS CREEK BLVD.
CUPERTINO, CA 95014

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MAY 10 2004
OFFICE OF PETITIONS

In re Application of :
Sander et al. :
Application No. 10/045,199 :
Filed: October 22, 2001 :
Attorney Docket No. 111022MMT.US :

This is a decision in response to the petition under 37 CFR 1.137(b), filed February 24, 2004, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers (hereinafter "Notice"), mailed February 13, 2002, which set a two (2) month period for reply. No response having been received, the application became abandoned on April 14, 2002. A Notice of Abandonment was mailed on January 16, 2004.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). The reply to the February 13, 2002 Notice is filed with the instant petition. Accordingly, the petition is granted.

This application is being forwarded to the Office of Initial Patent Examination for continued processing in due course.

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.

Further to this, the Change of Attorney Docket Number and Change of Address Notice has NOT been entered or made of record. A

Power of Attorney authorizing Petitioner to act in this case is required.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: ROBERT E. KREBS
THELEN REID & PRIEST LLP
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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Thelen Reid & Priest LLP
225 W. Santa Clara Street
Suite 1200
San Jose, CA 95113

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OFFICE OF PETITIONS

In re Application of	:	
SANDER et al.	:	
Application No. 10/045,199	:	DECISION ON PETITION
Filed: October 22, 2001	:	TO WITHDRAW
Attorney Docket No. 034942-000255	:	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** as moot.

A review of the file record indicates that all previous powers of attorney have been revoked by the intervening assignee of the patent application on October 17, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

The response after final dated June 12, 2006 will be forwarded to Group Art Unit 2616 for processing.

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

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

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JUL 05 2002

OFFICE OF PETITIONS

Intellectual Property Department
Sony Electronics Inc.
123 Tice Boulevard - MD T1-1
Woodcliff Lake NJ 07677-8402

In re Application of
Eytchison, et al.
Application No. 10/045,213
Filed: October 23, 2001
Attorney Docket No. 50P4280.02
For: CONTENT ABSTRACTION LAYER FOR USE IN HOME NETWORK APPLICATIONS

DECISION GRANTING PETITION

This is a decision on the petition entitled, "PETITION UNDER 37 CFR 1.182," filed May 7, 2002 (certificate of mailing date April 29, 2002), requesting, in effect, partial withdrawal of the Notice to File Corrected Application Papers (Notice) insofar as the Notice stated that Figure 7 appeared to have been omitted. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on October 23, 2001. On March 1, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that drawing figure 7 described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that drawing figure 7 be accorded a filing date of October 23, 2001 on the basis that 12 sheets of drawing figures, including drawing figure 7, were received in the Patent and Trademark Office (PTO) on October 23, 2001. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing October 23, 2001 as the date of receipt. The postcard lists, *inter alia*, that the filing included 12 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 12 sheets of drawing figures, including drawing figure 7, were filed on October 23, 2001. MPEP 503. Accordingly, the request is granted.

The $130.00 petition fee will be credited to deposit account no. 19-3195.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of October 23, 2001, using the 12 sheets of substitute drawings, including Figure 7, submitted with the instant petition. Office records will be corrected to show that 12 sheets of drawings were present on filing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 19 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Anderson, Levine & Lintel L.L.P.
14785 Preston Road
Suite 650
Dallas, TX 75254

In re application of
Stephen G. Argenbright
Application No. 10/045,219
Filed: November 9, 2001
For: ONLINE EDUCATIONAL TRUST CREATION AND MANAGEMENT

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed August 26, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed August 26, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

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

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any,

only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/vdb: 10/14/04

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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#4

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JAN 1 3

Intellectual Property Department
Dura Automotive Systems, Inc.
2791 Research Drive
Rochester Hills, MI 48309

In re Application of
Ronnie G. Gipson
Application No. 10/045,223
Filed: November 9, 2001
For: ARTICULATED WINDOW PANEL WITH HIDDEN HINGE FOR VEHICLES

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's request to withdraw the holding of abandonment filed in the United States Patent and Trademark Office on October 4, 2003.

The petition is **DISMISSED**.

A review of the file record indicates that an Office Action was mailed to applicant on February 14, 2003 wherein a three-month shortened statutory period for response was set. Since no timely response to the February 14, 2003 Office Action was received and the six-month statutory time period for reply has expired, the application was abandoned and a notice to that effect was mailed on September 24, 2003

Petitioner states that a response was filed on April 4, 2003 by facsimile. The copy of the response submitted with the petition includes a Certificate of Transmission dated April 4, 2003.

It is noted the petition is signed by practitioner's paralegal. Petitions must be filed by registered practitioners. Therefore the petition will not be further treated on the merits.

Should applicant renew the petition to withdraw the holding of abandonment it is recommended applicants review section 512 of the MPEP. This section sets forth the procedure applicants must follow for verification of timely transmitted responses with a Certificate of Transmission, sent by facsimile, when the application has been improperly held abandoned.

MPEP 512 states:

> "(C) When the certification is presented on a **separate sheet**, that sheet must (1) be signed and (2) **fully identify** and be securely attached to the paper it accompanies. The required identification should include the

application number and filing date of the application as well as the type of paper being filed, e.g., reply to rejection or refusal, Notice of Appeal, etc...

Moreover, without the proper identifying data, a certification presented on a separate sheet will not be considered acceptable if there is any question or doubt concerning the connection between the sheet and the paper filed."

Should applicant's feel that a subsequent petition to withdraw the Holding of Abandonment will not be granted applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: **(1)** the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; **(2)** the petition fee required by 37 CFR 1.17(l); and **(3)** an adequate 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.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay.

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; (**2**) the petition fee required by 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 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is $110. The fee for a petition under the unintentional standard is $1,300. If applicant has, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive.

The required items should be promptly submitted under a cover letter entitled "Petition to Revive".

Further correspondence with respect to a petition to revive should be addressed as follows:

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

By Hand: Crystal Plaza 4, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries regarding petitions to revive should be directed to the Office of Petitions Staff at (703) 305-9282.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/cps: 1/8/04

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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OCT 20 2005

#10

Intellectual Property Department
Dura Automotive Systems, Inc.
2791 Research Drive
Rochester Hills, MI 48309

In re Application of	:	
Ronnie G. Gipson	:	DECISION ON PETITION
Application No. 10/045,223	:	TO WITHDRAW THE
Filed: November 9, 2001	:	HOLDING OF ABANDONMENT
For: ARTICULATED WINDOW PANEL WITH HIDDEN HINGE FOR VEHICLES		

This is a decision on applicant's renewed petition, and supplement to the renewed petition, filed in the United States Patent and Trademark Office on February 23, 2004 and October 6, 2004, respectively.

The petition is **DISMISSED**.

A review of the file record shows that an Office Action was mailed to applicant on February 14, 2003, wherein a three-month shortened statutory period for response was set. Since no timely response to the February 14, 2003 Office Action was received and the six-month statutory time period for reply expired, the application became abandoned and a notice to that effect was mailed on September 24, 2003.

Petitioner states that a response was filed on April 4, 2003 by facsimile transmission. In support thereof, petitioner has provided, *inter alia.,* 1) a copy of a response to the February 14, 2003 Office action, including a transmittal cover letter, 2) a copy of a Certificate of Transmission, on a separate page signed by Jennifer Sinkovich and dated April 4, 2003, 3) a verified statement under 37 CFR 1.8(b)(3) by Jennifer Sinkovich, and 4) a copy of a portion of Dura Automotive Systems' telephone charge records.

Petitioner's evidence of a timely filing, based on a Certificate of Transmission, is considered to be insufficient to withdraw the holding of abandonment. In this regard, 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).

Further, MPEP § 512 very specifically requires that,

> "(C) When the certification is presented on a separate sheet, that sheet must (1) be signed and (2) fully identify and be securely attached to the paper it accompanies. The required identification should include the application number and filing date of the application as well as the type of paper being filed, e.g., reply to rejection or refusal, Notice of Appeal, etc...
>
> Moreover, without the proper identifying data, a certification presented on a separate sheet will not be considered acceptable if there is any question or doubt concerning the connection between the sheet and the paper filed" (emphasis added).

The copy of the Certificate of Transmission submitted by petitioner is on a separate sheet and does not identify, in any way, the paper that it accompanied, and cannot be considered acceptable proof of a timely filing. In an effort to overcome this deficiency, petitioner has also submitted a copy of Dura Automotive's telephone charge records. However, the copy of Dura Automotive's telephone charge records does not overcome the above-noted, very specific requirement necessary to show a timely filing based on a Certificate of Transmission, when petitioning for the withdrawal of the holding of abandonment.

For these reasons, applicant's renewed petition to withdraw the holding of abandonment is **DISMISSED**.

Applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute;(2) the petition fee required by 37 CFR 1.17(l); and (3) an adequate 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.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay.

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; (2) the petition fee required by 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 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is $500. The fee for a petition under the unintentional standard is $1,500. If applicant has, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive.

The required items should be promptly submitted under a cover letter entitled "Petition to Revive".

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 FAX: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries regarding petitions to revive should be directed to the Office of Petitions Staff at (571) 272-3282.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/rwg: 10/18/05

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Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

Paper No. 13

Intellectual Property Department
Dura Automotive Systems, Inc.
2791 Research Drive
Rochester Hills MI 48309

In re Application of
Ronnie G. Gipson
Application No. 10/045,223
Attorney Docket No. 01-26

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 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 February 14, 2003, which set a statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 15, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of February 14, 2003 is accepted as having been unintentionally delayed.

The request to appoint Dean B. Watson as attorney and agent to represent Dura Global Technologies, Inc. before the United states Patent and Trademark Office in connection with any and all matters related to the instant application can not be approved because no statement under 3.73(b) was filed.

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 Mikhail Kornakov at (571) 272-1303 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3676 for appropriate action on the concurrently filed amendment.

David A. Bucci
Petitions Examiner
Office of Petitions

C.c: Dean B. Watson
2791 Research Drive
Rochester Hills, MI 48309

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

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

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MAY 1 7 2002

OFFICE OF PETITIONS

In re Application of :
Michael Robins et al :
Application No. 10/045,287 : NOTICE
Filed: October 18, 2001 :
Attorney Docket No. 010327-003500US :

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

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

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

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

This file is being forwarded to Initial Patent Examination Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

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

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OFFICE OF PETITIO

In re Application of	:
Dongyun Lee et al	:
Application No. 10/045,297	: DECISION ON PETITION
Filed: November 7, 2001	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 594728112US	:

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 Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is dismissed as **MOOT**.

The record disclosed that, on November 7, 2001, the date of filing of the instant application, petitioner indicated on the Utility Patent Application Transmittal that a Request and Certification under 35 U.S.C. § 122 (b)(2)(B)(i) was filed on the same day. A review of the file record discloses that there is no indication that applicants had in fact submitted a nonpublication request certifying that "the invention disclosed in the attached **application has not and will not** be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing."

Petitioner now requests under 35 U.S.C. § 122(b)(2)(B)(ii) that the Request and Certification Under 35 U.S.C. § 122(b)(2(B)(i) be rescinded and the application be revived because this application became abandoned for failure to notify the USPTO within 45 days of the filing of a corresponding international or foreign application.

Where an applicant makes a nonpublication request under 35 U.S.C. 122(b)(2)(B)(i) and then rescinds (pursuant to 35 U.S.C. § 122(b)(2)(B)(ii)) the nonpublication request **before or on the date a counterpart application is filed in an eighteen-month publication country**, the nonpublication request will be treated as annulled and the application will be treated as if the nonpublication request had never been made. *See*

Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2))(B)(ii)-(iv), 1272 OG 1 (July 1, 2003), available at http://www.uspto.gov/web/patents/ patog/week26/.

In the instant application, since the record fails to disclose that a Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) was present on filing the application, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue.

in view of the above, the petition fee of $1,300.00 is being credited to Deposit Account No. 50-0665 as authorized.

This application is being forwarded to Technology Center 2188 for examination in due course.

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

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 Patents
United States Patent and Trademark Office
P.O. Box 1450
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IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

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OFFICE OF PETITIONS

In re Application of :
Dewitt et al. :
Application No. 10/045,307 :
Filed: January 14, 2002 :
Attorney Docket Number: AUS920010716US1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 15, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of November 17, 2004. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on February 18, 2005. A Notice of Abandonment was mailed on October 6, 2005.

This petition is hereby **Granted**.

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

This application is being forwarded to Technology Center 2100 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

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

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JUL 03 2002

OFFICE OF PETITIONS

In re Application of :
Stephen Chin :
Application No. 10/045,313 : DECISION ON PETITION
Filed: October 24, 2001 :
Title: INTERNET-BASED MONETARY PAYMENT :
SYSTEM

This is a decision on the petition filed March 27, 2002, to accord the above-identified application a filing date of October 24, 2001, with pages 7 and 8 of the specification as a part of the original disclosure.

Application papers in the above-identified application were filed on October 24, 2001. However, on March 1, 2002, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Item(s) in a Nonprovisional Application." Applicant was notified that pages 7 and 8 of the specification appeared to have been omitted from the application.

In response, on March 27, 2002, applicant filed the present petition to accord a filing date of October 24, 2001, with pages 7 and 8 of the specification as part of the original disclosure. Applicant asserted that pages 7 and 8 were with the application as originally filed on October 24, 2001. As proof thereof, applicant submitted a copy of a date-stamped postcard receipt, indicating that the following items were received by the PTO on October 24, 2001: (1) Utility Patent Application Transmittal; (2) Fee Transmittal; (3) Preliminary Amendment; (4) Application Data Sheet; (5) Copy of Declaration and Power of Attorney from parent; and (6) Patent Application.

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 the items. See MPEP 503. Here, the postcard receipt does not identify the number of pages of the specification. The postcard receipt does acknowledge receipt of the Utility Patent Transmittal. Examination of the Utility Patent Transmittal denotes 11 pages of specification. However, a postcard receipt which references a transmittal letter only serves as evidence of receipt in the Office of the transmittal letter, and not of items which are listed on the transmittal letter.

The PTO file is the official record of papers originally filed in this application. A review of the official file reveals that pages 7 and 8 of the specification were not filed on October 24, 2001, since those pages are not present in the file. An applicant alleging that a paper was filed in the PTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

Because pages 7 and 8 of the specification were not present on October 24, 2001, the date the application was filed, pages 7 and 8 cannot be

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considered a part of the original disclosure of the application. Accordingly, the application cannot be accorded the filing date of October 24, 2001, with pages 7 and 8 as a part of the original disclosure.

Accordingly, the petition is **DISMISSED**.

The petition fee will not be refunded to petitioner.

Pages 7 and 8, submitted as part of the original disclosure of the parent application, will not be entered at this time. However, because the parent application disclosure was incorporated by reference in the above-identified application, applicant may submit pages 7 and 8 as an amendment to be considered by the examiner. Applicant should submit the amendment prior to the first Office action to avoid delays in the prosecution of the application.[1]

Any request for reconsideration of this decision should be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

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

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

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

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

The application file will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of October 24, 2001, using the pages of the specification filed on that date.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 703-305-0272.

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

[1] See MPEP 201.06(c).

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COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
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Paper No. 11

PATRICK M. BOUCHER
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 0 9 2003

OFFICE OF PETITIONS

In re Application of :
Stephen Chin :
Application No. 10/045,313 :
Filed: October 24, 2001 :
Attorney Docket No. 020375-002910US :

NOTICE

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

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

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

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

This file is being forwarded to Technology Center 3600.

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
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JAN 29 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

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

Paper No. 14

In re Application of
Stephen Chin
Application No. 10/045,313
Filed: October 24, 2001
For: INTERNET-BASED MONETARY PAYMENT SYSTEM

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's letter received September 22, 2003 which has been treated as a Petition to Withdrawal the Holding of Abandonment.

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

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____.
and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

☒ Originally sent response filed May 6, 2003 has been found and matched with the application.

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

cps/1/21/04

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
www.uspto.gov

REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA GABRIEL, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE WI 53202

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of	:
Thomas J. Watson	:
Application No. 10/045,331	:DECISION GRANTING PETITION
Filed: October 23, 2001	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 8212	:

This is a decision on the petition under 37 CFR 1.137(f), filed January 18, 2005, 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(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 June 23, 2005 accompanies this decision on petition.

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

This application is being referred to Technology Center AU 3754.

Sherry D. Brinkley
Paralegal Specialist
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
Washington, D.C. 20231
www.uspto.gov

Paper No. 12

IP Department
Schnader Harrison Segal & Lewis
36th Floor
1600 Market Street
Philadelphia PA 19103

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MAR 2 5 2003

OFFICE OF PETITIONS

In re Application of Bradley Stuart Galer Application No. 10/045,341 Filed: October 25, 2001 Attorney Docket No. 1203-01	DECISION GRANTING PETITION UNDER 37 CFR 1.137(f)

This is a decision on the petition, filed March 13, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on October 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(f) must be accompanied by:

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

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until

the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice of Acceptance of Publication Request which sets forth the projected publication date of July 3, 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 1615.[1]

Frances Hicks

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

ATTACHMENT: Notice of Acceptance of Publication Request

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[1] Receipt of the "Amendment" in reply to the Office action of November 27, 2002 is acknowledged.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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AUG -2 2007

In re Patent No. KILLEN, WILLIAM DEAN	:	
Issue Date: November 11, 2003	:	**DECISION GRANTING**
Appl No.: 10/045,347	:	**PETITION**
Filed: November 07, 2001	:	*37 CFR 1.324*
For: MULTI-FREQUENCY BAND ANTENNA AND RELATED METHODS	:	

This is a decision on the petition filed November 25, 2003 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Douglas W. Owens
Supervisory Patent Examiner
Art Unit 2821
Technology Center 2800

ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO, FL 32802-3791

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

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

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JUL 2 9 2003

OFFICE OF PETITIONS

In re Application of	:
Yeshik Shin et al	:
Application No. 10/045,348	: DECISION GRANTING PETITION
Filed: November 7, 2001	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 594728816US	:

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 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 2664 for examination in due course.

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 PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Charles E. Baxley
59 John Street
5th Floor
New York, NY 10038

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MAR 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Jih Chung Chiang, et al.	:	
Application No. 10/045,379	:	DECISION DISMISSING
Filed: January 15, 2002	:	PETITION
Attorney Docket No. 12684 B	:	

This is a decision on the petition filed January 6, 2005, requesting that the above-identified application be accorded a filing date of November 19, 2001, rather than the presently accorded date of January 15, 2002.

The petition is **DISMISSED**.

Petitioner requests that this application be accorded a filing date of November 19, 2001. Petitioner asserts that the package in question was filed via First Class Mail instead of Express Mail because of the interruption of mail service to the USPTO in November 2001. Petitioner states that the mail service was suspended on November 16, 2001 and that an alternative mailing procedure was not provided until November 20, 2001 (one day after the mailing of the package in question.)

Paragraph (a) of 37 CFR 1.10 states that:

> "Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See § 1.6(a).

Petitioner is incorrect that an alternate mailing procedure was not provided until November 20, 2001, one day after petitioner mailed the patent application.

In the Official Gazette of October 9, 2001, a Notice was posted stating in pertinent part:

> "In some cases, due to the recent emergency, certain post offices are refusing to accept the deposit of mail for delivery by Express Mail service. The USPTO is also designating this interruption in the Express Mail service of the USPS as a postal service interruption within the meaning of 35 U.S.C. 21(a) and 37 C.F.R. 1.6(e). In addition, **if a party attempts to deposit correspondence for delivery to the USPTO with the USPS by Express Mail under 37 CFR 1.10 ("Express Mail Post Office to Addressee") and the USPS refuses to accept such correspondence, the party is advised to take the following action: mail the correspondence to the USPTO by registered or first class mail with a statement by the person who originally attempted to deposit the correspondence with the USPS by Express Mail. The statement must indicate the date on which the person attempted to deposit the correspondence with the USPS and that the USPS refused to accept the correspondence. The statement must be signed in accordance with 37 CFR 10.18. The correspondence should be mailed as set out in 37 CFR 1.1(a) and include the special box designation: BOX FILING DATE." (Emphasis added)**

A review of the file record shows that petitioner did not follow the guidelines set forth in the aforementioned Notice of October 9, 2001, which was published **prior** to the mailing of the application. Additionally, there is no statement present in the application file from the person, who originally attempted to deposit the correspondence with the USPS as Express Mail that the USPS refused to accept the correspondence. In fact, there is no indication, based on the statements provided in the petition, that an attempt to deposit the application as Express Mail was made. Moreover, the envelope that petitioner used to mail the application (a copy of which is enclosed herewith) via First Class Mail was not addressed "BOX FILING DATE" in accordance with the Notice, but was addressed as:

> "Commissioner of Patent & Trademarks
> Washington, DC 20231
> **Attention: BOX PATENT APPLICATION FEE" (Emphasis added)**

Additionally, the Official Gazette Notice dated November 20, 2001, states:

> "In some cases, due to the recent emergency, certain post offices are refusing to accept the deposit of mail for delivery by Express Mail service. The USPTO is also designating this interruption in the Express Mail service of the USPS as a postal service interruption within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e). In addition, if a party attempts to deposit correspondence for delivery to the USPTO with the USPS by Express Mail under 37 CFR 1.10 ("Express Mail Post Office to Addressee") and the USPS refuses to accept such correspondence, the party is advised to take the following action: mail the correspondence to the USPTO by registered or first class mail with a statement by the person who originally attempted to deposit the correspondence with the USPS by Express Mail. The statement must indicate the date on which the person attempted to deposit the correspondence with the USPS and that the USPS refused to accept the correspondence. The statement must be signed in accordance with 37 CFR 10.18. The correspondence should be mailed as set out in 37 CFR 1.1(a) and include the special box designation: BOX FILING DATE.

If a party can demonstrate that due to extraordinary circumstances the above procedures could not be followed, it will be necessary to file a petition under 37 CFR 1.183 (patent matter) or 2.146(a)(5) and 2.148 (trademark matter) to waive the requirements of 37 CFR 1.10 to permit the USPTO to accord the correspondence a filing date as of the date that Express Mail deposit was attempted. **Such a petition must be accompanied by a statement by the person who originally attempted to deposit the correspondence with the USPS by Express Mail, stating the date that the deposit was attempted and that the USPS refused to accept the correspondence, and be signed by such person subject to the conditions prescribed in 37 CFR 10.18.**

Certificates of Mailing Under 37 CFR 1.8

Parties submitting correspondence to the USPTO are reminded that 37 CFR 1.8 (certificate of mailing or transmission practice) does not provide for according a filing date as of the date of deposit with the USPS to correspondence submitted under 37 CFR 1.8. Therefore, it would be inappropriate to file a petition under 37 CFR 1.183 or 2.146(a)(5) and 2.148 to waive the requirements of 37 CFR 1.8." (Emphasis added)

In view of the above, the filing date of the application remains. While the Office is sympathetic to petitioner's situation, the failure to comply with the established procedures does not exhibit an "extraordinary circumstance." Therefore, it would be inappropriate to grant the relief requested in the present petition.

Telephone inquiries concerning this matter may be directed to Marianne Jenkins at (571) 272-3223.

This application will be referred to Technology Center 3700 for further examination with the presently accorded filing date of January 15, 2002.

Brian Hearn

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

Enclosure: Copy of Envelope Used to Mail Patent Application

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 7

Perkins Coiè LLP
PO Box 1247
Seattle, WA 98111-1247

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OFFICE OF PETITIONS

In re Application of
Shin et al.
Application No. 10/045,393
Filed: November 7, 2001
Attorney Docket No. 594728107US

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

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

The petition is GRANTED.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on 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)or failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

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

1) the required reply which is met by the notification of

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. **A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 13, 2003 accompanies this decision on petition.**

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

This application is being forwarded to Technology Center Art Unit 2631 for examination in due course.

Latrice Bond

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

Marianne E. Morgan for

Frances Hicks
Lead Petitions Examiner

ATTACHMENT: Notice Regarding Rescission of Non-Publication Request and Notice of Foreign Filing

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

Mailed: 5/6/05

rld

In re application of
Lorenz J. Bauer
Serial No. 10/045,395
Filed: November 7, 2001
For: MIDDLE DISTILLATE SELECTIVE HYDROCRACKING PROCESS

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT - OFFICE ACTION NOT RECEIVED, mailed June 10, 2004. The petitioner requests that the abandonment for failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance, mailed May 27, 2004, be withdrawn. The requester asserts that the Notice of Allowance was not received at the applicant's correspondence address.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114). A review of the petitioner's evidence indicates that the request has merit. The evidence presented is sufficient to establish that the applicants or applicant's representative did not receive the Notice of Allowance, mailed December 12, 2003. The evidence provided includes a statement by the petitioner that the Notice of Allowance and Issue Fee Due, mailed December 12, 2003, was not received, and a statement that a search of the file jacket and docket records indicate that the Notice of Allowance and Issue Fee Due was not received. Petitioner has also provided a copy of the application docket records where the Notice of Allowance would have been posted had it been timely received.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the Notice of Allowance and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

JOHN G TOLOMEI, PATENT DEPARTMENT
UOP LLC
25 EAST ALGONQUIN ROAD
P O BOX 5017
DES PLAINES IL 60017-5017

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

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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JUN 0 6 2002

OFFICE OF PETITIONS

In re Application of	:	
Hasegawa	:	
Application No. 10/045,397	:	DECISION GRANTING
Filed: November 7, 2001	:	PETITION
Attorney Docket No. 2552-000004	:	

This is a decision on the petition filed April 4, 2002, to establish that Figure 7 was part of the originally filed application.

On November 7, 2001, the application was filed.

On March 6, 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 7, 2001, and advising applicants that Figure 7 described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that Figure 7 was deposited on November 7, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "7 sheets of drawings showing Figures 1-8" on November 7, 2001.[1] Petitioner has also submitted a copy of the missing documentation- page 6 of the drawings which consists of Figure 7.

Upon review of the record, Figure 7 deposited on November 7, 2001 has not been located. However, the evidence is convincing that the application papers deposited on November 7, 2001, included Figure 7, and that Figure 7 was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of Figure 7 submitted with the petition will be used for examination purposes.

Since petitioner has proven that Figure 7 was deposited with the original application papers, the petition fee of $130 will be credited to petitioner's deposit account.

The Notice mailed March 6, 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 7, 2001, using the application papers filed on November 7, 2001 and the copy of page 6 of the drawings, consisting of Figure 7, filed on April 4, 2001.

---

[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

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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BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

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SEP 15 2008

In re Application of	:	
MOON, Chulso et al.	:	
Application No. 10/045,400	:	DECISION ON PETITION
Filed: November 29, 2001	:	TO WITHDRAW
Attorney Docket No. **P-CAN 1004**	:	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 30, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Lisa M. Hemmendinger on behalf of all attorneys of record who are associated with customer No. 22907. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **CHULSO MOON**
2 FERNHAM WAY
LUTHERVILLE, MD 21093

cc: **ANNE M. DERRICK**
CANGEN BIOTECHNOLOGIES, INC.
300 EAST LAMBARD STREET
BALTIMORE, MD 21202

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUN 12 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

MORRISS O'BRYANT COMPAGNI, P.C.
136 SOUTH MAIN STREET
SUITE 700
SALT LAKE CITY UT 84101

In re Application of :
Lambert et al. :
Application No. 10/045,434 :
Filed: November 7, 2001 :
For: REMOTE TARGET CONTROL SYSTEM :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 6, 2003.

A grantable request to withdraw as attorney 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 attorneys of record except for Randall B. Bateman are associated with Customer Number 26,986. Therefore, Randall B. Bateman 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.

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

cc: RANDALL B. BATEMAN
PO BOX 1319
SALT LAKE CITY, UT 84110-1319

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

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

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JUL 1 7 2002

OFFICE OF PETITIONS

In re Application of :
Kirkpatrick et al. :
Application No. 10/045,436 :
Filed: November 7, 2001 :
Attorney Docket No. 60027.075US01/BS01302 :

DECISION ON PETITION

This is a decision on the petition filed March 19, 2002, requesting, in effect, that page 19 of the specification filed on March 19, 2002, be entered as part of the original disclosure.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The application was filed on November 7, 2001. On February 19, 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 7, 2001, and advising applicants that page 19 of the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner alleges page 19 was filed with the original application.

All the evidence present in the file has been carefully considered, but is not persuasive that page 19 was submitted with the original application.

The last portion of MPEP 513 states,

> Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application) ... The Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g. a postcard receipt ....

While petitioner apparently believes that page 19 was filed on November 7, 2001, the file of application No. 10/045,436[1] shows that page 19 was not received, since no such papers are present in the file. An applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this regard,

---

[1] The file contains the actual papers received and the file is an official government record prepared and maintained by disinterested USPTO employees as a part of their customary and usual duties.

declarations by individuals involved in the preparation and filing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed are generally not more persuasive of what was actually filed in the USPTO than the contents of the application file. Such declarations are usually made weeks or months after the actual events recited. In this case, the record in unclear whether Leonard Hope, the individual signing the petition, even participated in the copying and mailing of the application. The mere statement that page 19 was filed with the application does not have more probative value than the official government record of what was actual received in the USPTO on November 7, 2001.

Petitioner has only demonstrated an intent to file page 19 and has not established that the page 19 was actually filed. Unfortunately, patent applicants and their representatives, who intend to file complete applications, occasionally file applications which are missing one or more pages, due to clerical error, a copying machine error (such as papers sticking together), papers falling out of a file, or another reason. A demonstration of an intent to included a page or pages does not establish the actual receipt of such pages by the Office.

It is for this reason that the USPTO has established a practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice, which was has been in existence for many years and is well publicized, requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

Petitioner has supplied a copy of the postcard mailed to the Patent and Trademark Office but has not supplied a copy of a postcard returned by the Office indicating that all of the parts of the application were received.

The evidence of record fails to prove that page 19 was submitted with the original application.

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

By mail:	Commissioner for Patents Box DAC Washington, D.C. 20231
By facsimile:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

Since applicants have not filed a petition under 37 CFR 1.182 requesting March 19, 2002, the date the missing page was filed, as the filing date, page 19 filed on March 19, 2002, will not be entered.

An amendment to the specification deleting references to page 19 should be filed prior to the first USPTO action in order to avoid further delays in the examination of the application. In the alternative, if petitioner desires for the examiner to consider pages which were not submitted as part of the original disclosure, then petitioner may seek to submit some or all of those pages as an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter. See MPEP 608.02(a).

If a request of reconsideration, or petition under 37 CFR 1.182, is not filed within two months, the file will be returned to the Office of Initial Patent Examination for further processing with a filing date of November 7, 2002, using only the papers filed on that date.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 6

Merchant & Gould
PO Box 2903
Minneapolis, MN 55402-0903

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SEP 0 4 2002

OFFICE OF PETITIONS

In re Application of	:	
Kirkpatrick et al.	:	
Application No. 10/045,436	:	DECISION GRANTING
Filed: November 7, 2001	:	PETITION
Attorney Docket No. 60027.075US01/BS01302	:	

This is a decision on the renewed petition filed August 13, 2002, to establish that page 19 of the specification which includes claims 19 and 20 was part of the originally filed application.

On November 7, 2001, the application was filed.

On February 19, 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 7, 2001, and advising applicants that page 19 of the specification appeared to have been omitted.

In response, the present petition was filed alleging that page 19, which consists of claims 19 and 20, was deposited on November 7, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "20 claims" on November 7, 2001.[1] Petitioner has also submitted a copy of the missing documentation- page 19.

Upon review of the record, page 19, deposited on November 7, 2001, has not been located. However, the evidence is convincing that the application papers deposited on November 7, 2001, included page 19, and that page 19 was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of page 19 submitted with the petition will be used for examination purposes.

The Notice mailed February 19, 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 7, 2001, using the application papers filed on November 7, 2001, and the copy of page 19 of the specification filed on March 19, 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
Washington, D.C. 20231
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Paper No. 7

KING & SPALDING
191 PEACHTREE STREET, N.E.
ATLANTA, GA 30303-1763

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AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of :
Hodge, et al. :
Application No. 10/045,439 : ON PETITION
Filed: November 7, 2001 :
Attorney Docket No. 08286.105005 :

This is a decision on the papers styled, "Petition In Response To The Notice TO File Missing Parts Of Nonprovisional Application," filed on May 31, 2002, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of November 7, 2001, including pages 3, 13 and 16 of the specification, and Figures 2b, 3 and 4a as described in the specification.

The application was filed on November 7, 2001. However, on May 14, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice TO File Missing Parts Of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but pages 3, 13 and 16 of the specification, and Figures 2b, 3 and 4a as described in the specification, appear to have been omitted.

In response, on May 31, 2002, the instant petition and a copy of pages 3, 13 and 16 of the specification, and Figures 2b, 3 and 4a as described in the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of 37 pages of specification, claims and abstract and ten (10) sheets of drawings on November 7, 2001. A review of the application file indicates the presence of thirty-four (34) pages of specification, claims and abstract. Additionally, the ten (10) sheets of drawings contain Figures 1-7, with the second, third and fourth sheets of drawings containing Figures 2b, 3 and 4a, respectively. A review of the application file indicates the presence of only seven (7) sheets

of drawings with the second, third and fourth sheets containing Figures 2b, 3, and 4a missing. It is assumed that pages 3, 13 and 16 of the specification, and that the second, third and fourth sheets of drawings containing Figures 2b, 3, and 4a, were misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition has not been charged.

This application will be returned to OIPE for further processing with a filing date of November 7, 2001, using the copy of pages 3, 13 and 16 of the specification, and Figures 2b, 3 and 4a as described in the specification, supplied on May 31, 2002.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 3

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JUL 22 2002

OFFICE OF PETITIONS

ANDREW L. TIAJOLOFF, ESQ.
330 MADISON AVENUE
NEW YORK, NY 10017

In re Application of	:
Heinz Fabian	: DECISION GRANTING
Application No. 10/045,441	: PETITION
Filed: November 7, 2001	:
Attorney Docket No. 52201-0607	:

This is a decision on the petition filed June 28, 2002, to accord the above-identified application a filing date of November 7, 2001, instead of November 1, 2001.

The petition is **granted**.

37 CFR 1.10(d) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of November 7, 2001.

A corrected filing receipt showing the filing date of November 7, 2001 accompanies this decision.

This application is being forwarded to the Office of Initial Patent Examination Division for further processing with a filing date of November 7, 2001. Afterwards, the application will be forwarded to Technology Center Art Unit 2832 for examination in due course.

Telephone inquiries concerning this matter may be directed to Karen Creasy at (703) 305-8859.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of	:	
Steven O. Markel	:	
Application No. 10/045,453	:	DECISION ON PETITION
Filed: November 1, 2001	:	TO WITHDRAW
Attorney Docket No. INTE.18USU1 (ITC16)	:	FROM RECORD
	:	

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

The request is **NOT APPROVED**.

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

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

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

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

Terri Williams
Petitions Examiner
Office of Petitions

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Steven O Markel	:	
Application No. 10/045,453	:	DECISION ON PETITION
Filed: November 1, 2001	:	TO WITHDRAW
Attorney Docket No. 043978-020000	:	FROM RECORD
	:	

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

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to OPTV/MOFO c/o Morrison & Foerster LLP has been revoked by the assignee of the patent application on August 22, 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 Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Nixon Peabody, LLP**
401 9th Street, NW
Suite 900
Washington, DC 20004-2128

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Alexandria, VA 22313-1450
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EASTMAN & ASSOCIATES
SUITE 306
520 WEST ASH STREET
SAN DIEGO CA 92101

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MAR 09 2006

OFFICE OF PETITIONS

In re Application of	:	
Donald Bruns	:	
Application No. 10/045,459	:	DECISION ON PETITION
Filed: 7 November, 2001	:	
Atty Docket No. 1092-PA435	:	

This is a decision on the petition filed on 26 September, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 16 August, 2003, for failure to timely respond to the Office action mailed on 15 May, 2003, requiring restriction and/or election, which set a one (1) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. A response to the restriction requirement was filed on 3 November, 2003 (certificate of mailing 30 October, 2003), but was untimely

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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)).

because it was not accompanied by an extensions of time. A Notice concerning the fee deficiency was mailed on 21 November, 2003.[2] Notice of Abandonment was mailed on 19 October, 2004.

Petitioner has filed an election as the response to the restriction requirement.

The address on the petition is different than the address of record. A copy of this decision is being forwarded to the decision in the petition. All future correspondence will be mailed solely to the address of the record.

This application is being referred to Technology Center Art Unit 2873 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: JOHN R. ROSS
10455 PACIFIC CENTER CT.
SAN DIEGO CA 92121

[2] It appears that the fee deficiency notice was returned to the Office as undeliverable on 10 December, 2003. Additionally, the Notice of Abandonment was returned as undeliverable on 10 November, 2004.

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Paper No. 6

DAVIS & BUJOLD, P.L.L.C.
500 NORTH COMMERCIAL STREET
FOURTH FLOOR
MANCHESTER NH 03101

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JUL 23 2002

OFFICE OF PETITIONS

In re Application of Mathur et al. Application No. 10/045,464 Filed: November 8, 2001 Attorney Docket No. MED 719C	DECISION DISMISSING PETITION

This is a decision on the petition filed June 6, 2002 (certificate of mailing June 3, 2002), requesting that the above-identified application be accorded a filing date of November 8, 2001, with Figure 8f as part of the original disclosure.

On November 8, 2001, applicants filed the above-identified application. On April 4, 2002, the Office of Initial Patent Examination mailed a Notice to File Corrected Application Papers, requiring the submission of substitute drawings in compliance with 37 CFR 1.84. The Notice further stated that Figure 8f described in the specification appeared to have been omitted.

On June 6, 2002 (certificate of mailing June 3, 2002), applicants filed the present petition, a $130.00 petition fee, one (1) marked up sheet of drawings relabeling an unlabeled Figure as Figure 8f, and substitute drawings. Applicants explained that Figure 8f was included with the original application papers; however, due to a typographical error, it was not labeled as such.

It is obvious from the petition that no drawings were actually missing on November 8, 2001. Rather, the drawings of Figure 8f was simply unlabeled as a result of applicants' filing error. However, the Notice to File Corrected Application Paper mailed on April 4, 2002, was correct in stating that Figure 8f <u>appeared</u> to have been omitted. Therefore, the requirement to submit omitted Figure 8f set forth in the Notice was proper and will not be withdrawn.

Accordingly, the petition is <u>dismissed</u>.

The $130.00 petition fee will not be refunded because the present petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 8, 2001, using the 16 sheets of drawings filed on June 6, 2002, to correct the error in labeling of Figure 8f.

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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VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO CA 95014

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OFFICE OF PETITIONS

In re Application of
Starr, et al.
Application No. 10/045,503
Filed: November 7, 2001
Docket No.: ARIBP051

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned December 21, 2006 for failure to timely reply to the non-final Office action mailed September 20, 2006. The non-final Office action set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. This decision precedes Notice of Abandonment.

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

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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IBM CORP (YA)
C/O/ YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

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JUN 13 2007

OFFICE OF PETITIONS

In re Application of	:	
DeWitt, Jr. et al.	:	
Application No. 10/045,513	:	DECISION ON PETITION
Filed: January 14, 2002	:	
Attorney Docket No. AUS920010715US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 14, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 10, 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 application became abandoned on February 11, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1500.00; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571)272-6052 or in his absence, the undersigned at (571) 272-7099.

This application is being referred to Technology Center AU 2114 for appropriate action by the Examiner in the normal course of business on the reply received December 14, 2006.

David Bucci
Petitions Examiner
Office of Petitions

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Paper No. 6

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

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JAN 3 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Kazuhito Horiuchi	:	
Application No. 10/045,530	:	ON PETITION
Filed: 23 October, 2001	:	
Attorney's Docket No. P/16-305	:	

This is a decision on the petition filed on 23 December, 2002, requesting that the above-identified application be accorded a filing date of 23 October, 2001, with Page 2 of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 23 October, 2001. However, on 21 November, 2002, Initial Patent Examination Division mailed a "Notice" stating that the application had been accorded a filing date but that Page 2 of the specification (description and claims) appeared to have been omitted.

In response, on 23 December, 2002, Page 2 of the specification and the present petition were filed. Petitioner argues that Page 2 was filed with the other application papers on 23 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 10/23/01 with the above-identified application number, and acknowledges receipt of, *inter alia*, 77 pages of specification. Petitioner requests that the application, including Page 2 of the specification, be accorded a filing date of 23 October, 2001.

A review of the record reveals that no Page 2 of the specification has been located among the application papers deposited on 23 October, 2001. However, the evidence is

convincing that the application papers deposited on 23 October, 2001, included Page 2 of the specification, which was subsequently misplaced in the Office. Therefore, the application, including Page 2 of the specification, is entitled to a filing date of 23 October, 2001.

The "Notice" mailed on 21 November, 2002, is vacated.

In view of the above, the petition is granted. No petition fee has been paid and none is due.

The application will be processed and examined using the copy of Page 2 supplied on 23 December, 2002.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 23 October, 2001, using the application papers filed on 23 October, 2001, and the copy of Page 2 supplied on 23 December, 2002.

Telephone inquires should be directed to the undersigned at 703 308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAHIVE & COCKFIELD
28 STATE STREET
BOSTON MA 02109

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JUL 17 2002

OFFICE OF PETITIONS

In re Application of
Herweck et al.
Application No. 10/045,544
Filed: October 26, 2001
Attorney Docket No. ATA-333

DECISION GRANTING PETITION

This is a decision on the petition filed May 2, 2002, requesting that the above-identified application be accorded a filing date of October 26, 2001, with pages 16, 27, 30 and 49 of the specification as part of the original disclosure.

On October 26, 2001, applicants filed the above-identified application. However, on April 3, 2002, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) (Notice), stating that pages 16, 27, 30 and 49 of the specification appeared to have been omitted.

In response, on May 2, 2002, applicants filed, inter alia, the present petition, copies of pages 16, 27, 30 and 49 of the specification, and the petition fee. The petition was accompanied by a copy of applicants' postcard receipt acknowledging receipt of 55 pages of specification on October 26, 2001.

In the present petition, applicants request that the application, including pages 16, 27, 30 and 49 of the specification, be accorded a filing date of October 26, 2001, and the petition fee be refunded.

Upon review of the record, pages 16, 27, 30 and 49 of the specification, deposited on October 26, 2001, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on October 26, 2001, included pages 16, 27, 30 and 49 of the specification, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including pages 16, 27, 30 and 49 of the specification, was complete on filing and will be granted a filing date of October 26, 2001.

Accordingly, the petition is granted.

The Notice of April 3, 2002 was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 12-0080.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of October 26, 2001, using the pages 1-15, 17-26, 28, 29, 31-48, and 50-55 of specification submitted on October 26, 2001, and pages 16, 27, 30 and 49 submitted on May 2, 2002.

Any inquiries related to this decision should be directed to Petitions Attorney Christina Tartera Donnell at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Beverly M. Flanagan

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

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Michael L. Goldman
NIXON PEABODY LLP
Clinton Square
P.O. Box 31051
Rochester, NY 14603

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MAY 30 2006

OFFICE OF PETITIONS

In re Patent No. 6,969,610	:
Issued: November 29, 2005	: LETTER REGARDING PTA
Application No. 10/045,545	:
Filed: January 14, 2002	:
Atty. Dkt. No.: 176/60981 (6-11402-1001)	:

This letter is in response to the "COMMUNICATION REGARDING TERM ADJUSTMENT," filed December 15, 2005. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The request for reconsideration of patent term adjustment is **GRANTED**.

The above-identified application matured into U.S. Pat. No. 6,969,610 on November 29, 2005. The patent issued with a PTA of 30 days. Patentee, however, indicates that an error appears in the adjustment in that the patent is believed to be entitled to zero days of patent term adjustment.

Accordingly, an overall review of the PTA calculation was undertaken and it is determined that patentee is correct.

Accordingly, at the time of issuance, the application was entitled to zero days of PTA, as indicated by patentee.

As this letter was submitted as an advisement to the Office of an error in patentee's favor, no fee is due in connection with this matter. The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

This application file is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by zero days .

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	6,969,610 B2
DATED	:	November 29, 2005
INVENTOR(S)	:	Maines

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 30 days

Delete the phrase "by 30 days" and insert – by 0 days--

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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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JAN 0 8 2007

OFFICE OF PETITIONS

In re Application of
Eldon H. Nyhart, Jr.
Application No. 10/045,550
Filed: October 26, 2001
Attorney Docket No. 41594-200407

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 October 9, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Barnes & Thornburg, LLP has been revoked by the applicant of the patent application on October 24, 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ELDON H. NYHART, JR.
PO BOX 5045
ZIONSVILLE, IN 46077

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/045,550	10/26/2001	Eldon H. Nyhart JR.	41594-200407

CONFIRMATION NO. 3390

OC000000021809623

OC000000021809623

23643
BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

Date Mailed: 01/03/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/24/2006.

- The Power of Attorney to you in this application has been revoked by the applicant. 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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United States Patent and Trademark Office
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BAKER & DANIELS LLP
300 NORTH MERIDIAN STREET
SUITE 2700
INDIANAPOLIS, IN 46204

Mail Date: 04/20/2010

Applicant	: Eldon H. Nyhart JR.	: DECISION ON REQUEST FOR
Patent Number	: 7616989	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/045,550	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/26/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2411** 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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AMY C. CHRISTENSEN
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Denise Chapman Weston	:	DECISION
Application No. 10/045,582	:	ON PETITION
Filed: October 22, 2001	:	37 CFR 1.137(b)
Attorney Docket No. CKING.032A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 14, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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 issue fee and statement have been received. However, the instant petition lacks item(s) (1) a proper reply, as the amended drawings filed with the petition do not satisfy the Notice to correct the Drawings or Specification (Notice) mailed April 20, 2004.

Petitioner filed corrected Drawings that changed former figure 4 to new figure 6; former figures 5A and 5B to new figures 4A and 4B, and former figure 6 to new figure 5. However by the Notice mailed April 20, 2004, the Office informed petitioner Figures 4A& 4B were listed in the Brief Description of the Drawings but not in the Drawings and that Figure 4 contained in the Drawings was not listed in the Brief Description of the Drawings. A proper response would have included either an amendment to the specification to change the Brief Description of the Drawings from figures 4A & 4B to figure 4, or an amendment to the Drawings changing figure 4 to figures 4A & 4B. The petitioner has failed to file a proper response, and further raised additional issues for consideration by making additional changes to the Drawings that are outside of the mere correction of formal matters in the specification and/or drawings. For example, new figures 4A & 4B as currently presented, do not include detailed features including ROM 250 or RAM 255 as currently described in the instant specification.

Accordingly, this application cannot be revived until required corrections to the formal drawings or specification have been submitted.

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

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

By hand: 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 Angela Ortiz at (571) 272-6051 or the undersigned at (571)272-3217.

Karen Creasy 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 PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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AMY C. CHRISTENSEN
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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NOV 09 2005
OFFICE OF PETITIONS

In re Application of	:	
Denise Chapman Weston	:	DECISION
Application No. 10/045,582	:	ON RENEWED PETITION
Filed: October 22, 2001	:	37 CFR 1.137(b)
Attorney Docket No. CKING.032A	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 3, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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). Accordingly, the reply is accepted as having been unintentionally delayed.

This matter is being referred to the Office of Patent 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, DC 20231
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Paper No. 6

STEVEN P. WIGMORE
KING & SPALDING
45TH FLOOR
191 PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30303

MAIL

OCT 03 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Stephen A. Thomas, et al. :
Application No. 10/045,584 :
Filed: October 26, 2001 :
For: METHOD ANSD SYSTEM FOR PROCESSING UPSTREAM PACKETS OF 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 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
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Paper No. 8

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

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AUG 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Dongyun Lee et al. :
Application No. 10/045,601 : DECISION GRANTING PETITION
Filed: November 7, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 594768121US :

This is a decision on the petition, filed July 3, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (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. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 6, 2003 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2188 for examination in due course.

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

Marianne C. Morgan for
Frances Hicks
Lead Petitions Examiner

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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Philips Intellectual Property and Standards
P.O. Box 3001
Briarcliff Manor NY 10510-8001

JUN 15 2010

In re Application of	:	**DECISION ON PETITION**
DOWLING, KEVIN J. et al.	:	
Application No. 10/045,604	:	
Filed: October 23, 2001	:	
Attorney Docket No.: 010702US3	:	

This is a decision on the Petition to Withdraw Holding of Abandonment under 37 CFR §1.181 received in the United States Patent and Trademark Office (USPTO) on May 20, 2010.

The Petition is **Granted**.

The application was held abandoned for failure to timely file corrected drawings as required by and within the three-month period set in, the Notice of Allowability mailed December 3, 2008. Corrected drawings were not submitted within the time period for response. Therefore, the application was **properly** held abandoned and the Notice of Abandonment was mailed on March 31, 2009.

Petitioner states that U.S. Patent and Trademark Office mistakenly required corrected drawings on the Notice of Allowability. The drawings filed on June 19, 2009 appear to correct these problems. After consultation with the Examiner, the abandonment is being withdrawn as the requirement for drawings in the NOA is withdrawn.

The drawings filed on June 19, 2009 are acceptable and no further corrections are required.

Telephone inquires relating to this matter may be directed to the undersigned at 703-756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 10

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

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AUG 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Shin et al. :
Application No. 10/045,606 : DECISION GRANTING PETITION
Filed: November 7, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 594728115US :

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

The petition is GRANTED.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on 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)or 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.

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

This application is being forwarded to Technology Center Art Unit 2661 for examination in due course.

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

Marianne E. Morgan for
Frances Hicks
Lead Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

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

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AUG 1 8 2003

OFFICE OF PETITIONS

In re Application of
Shin et al.
Application No. 10/045,625
Filed: November 7, 2001
Attorney Docket No. 594728818US

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

This is a decision on the petition, filed July 3, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (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.

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

This application is being forwarded to Technology Center Art Unit 2665 for examination in due course.

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

Marianne Morgan for
Frances Hicks
Lead Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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RIVERFRONT OFFICE
ONE MAIN STREET, ELEVENTH FLOOR
CAMBRIDGE, MA 02142

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DEC 16 2004

OFFICE OF PETITIONS

In re Application of :
Frederick M. Morgan et al :
Application No. 10/045,629 : DECISION GRANTING PETITION
Filed: October 25, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. C01104/70091 RFG :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 26, 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 2821 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. 6

MENDELSOHN & ASSOCIATES, PC
1515 MARKET STREET
SUITE 715
PHILADELPHIA, PA 19102

COPY MAILED

AUG 0 8 2002

OFFICE OF PETITIONS

In re Application of :
Balay, et al. :
Application No. 10/045,643 :
Filed: November 7, 2001 :
Attorney Docket No. Balay 1-20-3-1-1 :

ON PETITION

This is a decision on the papers styled, "Petition Under 37 CFR 1.181," which is being treated as a petition under 37 CFR 1.53, filed on June 11, 2002 (Certificate of Mailing Date: June 3, 2002), requesting that the above-identified application be accorded a filing date of November 7, 2001, including Figure 2 as described in the specification.

The application was filed on November 7, 2001. However, on April 2, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Missing Parts Of Nonprovisional Application" that stated the application had been accorded a filing date, but Figure 2 as described in the specification appears to have been omitted.

In response, on June 11, 2002, the instant petition and a copy of Figure 2 as described in the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of two (2) sheets of drawings on November 7, 2001. The two (2) sheets of drawings contain Figures 1 and 2. A review of the application file indicates the presence of only one (1) sheet of drawings with the second sheet containing Figure 2 missing. It is assumed that missing second sheet of drawings containing Figure 2 was misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee submitted on June 11, 2002 will be refunded to deposit account no. 50-0782.

This application will be returned to OIPE for further processing with a filing date of November 7, 2001, using the copy of Figure 2 as described in the specification, supplied on June 11, 2002.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

William H. Dippert
Reed Smith, LLP
375 Park Avenue
New York, NY 10152

COPY MAILED

AUG 0 7 2002

OFFICE OF PETITIONS

In re Application of :
Hania et al.. :
Application No. 10/045,651 : DECISION ON PETITION
Filed: November 7, 2001 :
Attorney Docket No. 501010-20522 :

This is a decision on the petition filed May 30, 2002, requesting, in effect, that page 24 of the specification filed on May 30, 2002, be entered as part of the original disclosure.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The application was filed on November 7, 2001. On April 8, 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 7, 2001, and advising applicants that page 24 of the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner alleges page 24 of the specification was filed with the original application.

The petition cites the existence of a return postcard receipt stamped by the USPTO, but a copy of the postcard has not been submitted. Petitioner may wish to submit a copy of the postcard receipt.[1]

The current evidence fails to prove that page 24 of the specification was filed on May 24, 2002.

While petitioner apparently believes that page 24 was filed on November 7, 2001, the file of application No. 10/045,651 indicates that page 24 was not received, since no such paper is present in the file. The file contains the actual papers received and the file is an official government record prepared and maintained by disinterested USPTO employees as a part of their

[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.

customary and usual duties. An applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this regard, declarations by individuals involved in the preparation and filing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed are generally not more persuasive of what was actually filed in the USPTO than the contents of the application file. The declaration does not have more probative value than the official government record of what was actual received in the USPTO on November 7, 2001.

Petitioner requests that, if the petition is not granted, page 24 be deemed to have been deposited as of the filing date of the petition. Is petitioner requesting relief under 37 CFR 1.182 whereby the page will become part of the original application and the entire application will be given a filing date of May 30, 2002? If petitioner wishes to add the drawing without changing the application's filing date then such addition must be by way of an amendment or by filing a request for reconsideration with proof, such as a postcard receipt, that page 24 was submitted with the original application.

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

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

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

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

Telephone inquiries should be directed to 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

OIPE JC42
OCT 15 2002
PATENT & TRADEMARK OFFICE

#7

501010.20522 (23538.39)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	**Amnon Ganot et al.**	Group:	2825
Serial No.:	10/045,651	Examiner:	Not Yet Assigned
Filing Date:	November 7, 2001		
For:	**MULTI-LAYER PRINTED CIRCUIT BOARD FABRICATION SYSTEM AND METHOD**		

October 7, 2002

Commissioner for Patents
Washington, D.C. 20231

RECEIVED
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OFFICE OF PETITIONS

REQUEST FOR RECONSIDERATION

Applicants hereby request reconsideration of a Decision dismissing Applicants' Petition Under 37 C.F.R. § 1.182 filed May 30, 2002, whereby Applicants petitioned for acceptance that page 24 was deposited in the United States Patent and Trademark Office with the nonprovisional application papers filed November 7, 2001.

In said Decision, a copy of which is attached as Exhibit A, it was indicated that Applicants had failed to prove that page 24 was part of the application papers filed on November 7, 2001. The basic position of the Petitions Attorney is that the possible actions of one or more unnamed, disinterested USPTO employees have as much

evidentiary weight as the factual statements of a patent attorney registered in the U.S. Patent and Trademark Office. Applicants respectfully submit that this position is unsustainable and that the Decision must be overturned.

First of all, Applicants submit that the alleged evidentiary standards set forth in the Decision are irrelevant here. The simple facts are that an application having 32 pages was submitted, the transmittal papers refer to "32" pages (including page 24), see Exhibit B, and a postal receipt, see Exhibit C, refers to an application and seventeen pages of drawings. To the extent that the postcard may have been less specific than the prima facie standard to which reference is made in MPEP § 503, the combination of the postal receipt and the application transmittal papers is a functional equivalent.

And second, Applicants remind the Petitions Attorney that the application papers were mailed, and ultimately received, during a unique time period when government operations, including those of the United States Patent and Trademark Office, were not "customary and usual." Applicants specifically direct the Examining Attorney's attention to the copy of a communication dated January 16, 2002 from Nicholas P. Godici of the United States Patent and Trademark Office, attached as Exhibit D, wherein Mr. Godici discusses delays and damage associated with mail to the USPTO. Certainly this notice itself rebuts any presumption of regularity of USPTO operations during the time period in question.

Applicants point out that the original postcard receipt for the application papers was highly yellowed and was not received at Applicants' undersigned attorney's

firm until three months after the application papers were mailed to the USPTO by Express Mail. These were not customary and usual times, and the delay, destruction, alteration or other mistreatment of documents mailed to the USPTO is well documented.

In sum, Applicants submit that they have provided sufficient proof in the record thus far that page 24 was part of the applications papers forwarded to the USPTO on November 7, 2001, as reflected on the postcard receipt and the transmittal papers and in the previously submitted Declaration. The fact that in the extraordinary times existing at the end of last year, page 24 may somehow have been lost in processing, should not been to Applicants' detriment.

Respectfully submitted,

REED SMITH LLP

October 7, 2002

By: William H. Dippert

William H. Dippert - Reg. No. 26,723
599 Lexington Avenue, 29th Floor
New York, NY 10022
Tel. (212) 521-5400

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

William H. Dippert
Reed Smith, LLP
375 Park Avenue
New York, NY 10152

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NOV 0 5 2002

OFFICE OF PETITIONS

In re Application of :
Hania et al.. :
Application No. 10/045,651 : DECISION ON PETITION
Filed: November 7, 2001 :
Attorney Docket No. 501010-20522 :

This is a decision on the renewed petition filed October 15, 2002, requesting, in effect, that page 24 of the specification filed on May 30, 2002, be entered as part of the original disclosure.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The application was filed on November 7, 2001. On April 8, 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 7, 2001, and advising applicants that page 24 of the specification appeared to have been omitted.

In response, petitioner alleges page 24 of the specification was filed with the original application.

The evidence supplied by petitioner includes a non-itemized postcard receipt, a copy of the transmittal letter, and a declaration by the attorney.

The postcard:

The last portion of MPEP 513 states,

> Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application) ... The Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g. a postcard receipt . . . .

MPEP 503 states (emphasis added),

> The identifying data on the postcard should include:
> (A) applicant's name(s);
> (B) title of invention;
> (C) **number of pages of specification, claims (for nonprovisional applications),**

and sheets of drawing;

(D) whether oath or declaration is included;

(E) a list of any additional forms included with the application (e.g., application transmittal form, application data sheet, fee transmittal form, and /or provisional application cover sheet); and

(F) amount and manner of paying the fee.

A return postcard should be attached to each patent application for which a receipt is desired.

It is important that the return postcard itemize all of the components of the application. **If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO).** . . .

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.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. **The postcard should also identify the type of paper being filed**, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., **and the number of pages being submitted.** If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., **the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).**

The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as prima facie evidence of receipt of those items.

A postcard receipt is prima facie evidence because, upon receipt of the application, a disinterested individual compares the postcard receipt to the contents of the application. The individual ensures each item listed on the postcard is present and then the postcard is returned to applicant. If the postcard lists "Specification," the individual will review the application to see if a specification is present. The individual will not count the number of pages of specification or read the specification to see if pages may be missing. If the postcard lists "10 pages of specification," then the individual will review the application to see if 10 pages of specification are present. Petitioner's postcard only proves that the individual who reviewed the application and postcard verified that a specification was present. The Office does not dispute that a specification was filed on November 7, 2001, and if such a dispute arose, the postcard receipt would serve as prima facie evidence that something purporting to be a specification was filed on November 7, 2001. The Office disputes the number of pages of specification filed. Since the individual who mailed the postcard back to applicant did not count the number of pages of

specification, the receipt of the return postcard cannot serve as evidence that page 24 was present upon filing.

The transmittal sheet:

Assuming the transmittal sheet was proofread before it was signed, the transmittal sheet establishes that petitioner intended to file the number of pages listed on the sheet and that petitioner believed such pages would be filed. However, the transmittal form does not prove the page 24 was actually filed. The transmittal paper only proves that the page was not intentionally omitted, but does not prove the paper might not have been inadvertently omitted.

The declaration:

Petitioner raises the issue as to the extent to which declarations should be accepted to establish a filing date for an application or portions of an application. The Commissioner has refused to accept mere declarations in order to prove the filing date of an application.[1] The contents of an application are just as critical as the filing date for an application. Regarding the filing date issue, the Office expressly rejected reliance solely on evidence from an applicant when the Office rejected the use of 37 CFR 1.8 for purposes of obtaining a filing date.[2] 37 CFR 1.8 provides a

---

[1] *Federal Register* at 48 *Fed. Reg.* 2696 (January 20, 1983), and in the Patent and Trademark Office *Official Gazette* at 1027 *Off. Gaz. Pat. Office* 9 (February 1, 1983) (" Comment: One person commented that he found the idea of using a declaration or affidavit to establish a date of deposit unacceptable because it exposes the integrity of the assignment of filing dates to the risk of deception. Reply: The use of declarations or affidavits is usually intended to help explain activities which can be supported by exhibits. For example, if the Office copy of the mailing label was not entirely readable, applicant's copy of the "Express Mail" mailing label could accompany a declaration and serve as the basis for granting a filing date.")

Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995) ("Plaintiff thereafter submitted three affidavits, a declaration, and copies of two pages of records from his attorney's law firm, but the Commissioner finally denied plaintiff's petition for a filing date on the grounds that, if plaintiff had used Express Mail properly, he would have had an Express Mail receipt showing the actual date of mailing; and that the materials later submitted by the plaintiff were not good enough proof.

The materials plaintiff gathered together included a photocopy copy of an Express Mail label that is undated and bears no evidence of any U.S. Postal Service handling. Nothing submitted by plaintiff to the Patent and Trademark Office is corroborated by anything outside the office of the submitting counsel. It was the view of the Commissioner of Patent and Trademarks that these circumstances did not establish the extraordinary conditions that might warrant a waiver.

The decision was for the Commissioner to make, and I cannot find on the basis of the record presented to me that the Commissioner's decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."), aff'd without opinion, 95 F.3d 1166 (Fed. Cir.1996).

[2] The final rulemaking published on January 20, 1983, at 48 FR 2696-2714 and on February 1, 1983, at 1027 O.G. 9, contains the following comment:

> Comment: Two comments were received which proposed that only a certificate of mailing procedure as in § 1.8(a) be used for determining the date of deposit under 35 U.S.C. § 21.
>
> Reply: The filing date of an application is considered to be much more critical than the filing dates of papers accepted under § 1.8(a). The application filing date is often critical for determining if a statutory bar exists, whether foreign priority can be claimed and who is the senior party in an interference. Therefore, papers filed for purposes of receiving an application filing date should have some clear indication of the date of receipt by the United States Postal Service. Such a practice would also probably require storing all of the envelopes in the file wrapper for record purposes.

As explained in the final rulemaking, Express Mail service was found to be preferable because "a readily legible mailing date is provided to both the applicant and the Patent and Trademark Office on the 'Express Mail' label."

procedure by which the timely filing of papers and fees deposited with the U.S. Postal Service may be established *without independent corroboration by an employee of the U.S. Postal Service.* The criticality of an application filing date was considered adequate to justify independent verification by an employee of the U.S. Postal Service of the date of deposit of the application papers with the U.S. Postal Service. Put simply, the insertion by a disinterested employee of the U.S. Postal Service of the date of deposit in the U.S. Postal Service by Express Mail on the Express Mail label of the envelope containing application papers is the *raison d'être* of 37 CFR 1.10.[3] Postal employees are presumed to discharge their duties in a proper manner.[4]

While petitioner apparently believes that page 24 was filed on November 7, 2001, the file of application No. 10/045,651 indicates that page 24 was not received, since no such paper is present in the file. The file contains the actual papers received and the file is an official government record prepared and maintained by disinterested USPTO employees as a part of their customary and usual duties. An applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

The declaration signed by the attorney is dated May 30, 2002. The declaration states that the attorney's customary practice is to count the pages for an application. However, the attorney does not state he personally recalls counting the pages for this specific application which was filed more than six months earlier. To the degree a presumption exists that the attorney correctly followed his customary practices, such a presumption also exists that the Office correctly followed its customary practices. The record fails to discuss whether or not the attorney normally files properly itemized postcard receipts. If yes, then the fact that a deficient postcard was filed for this application would indicate that normal, customary practices were not followed.

Petitioner states that his customary practice included counting the pages and photocopying the papers. Were the papers counted immediately before being placed in the envelope? If not, might page 24 have been lost during the copying process or thereafter?

The petition states, "Applicants submit that the alleged evidentiary standards set forth in the [prior] Decision are irrelevant here." However, the fact remains that the Office does not have the burden of proving what was filed and the date of filing for applications. Instead, the burden of proof remains with petitioner. Petitioner has not established that the application papers received by the Office included page 24.

Petitioner cites a letter from the Office to all practitioners notifying them that the anthrax situation has resulted in delay and damage to some papers. The present issue is whether page 24 was actually received by the Office and is not the condition of the papers when received by the Office or the date the application papers were received. Petitioner has not established that a damaged or undamaged page 24 was received by the Office.

Since applicants have not filed a petition under 37 CFR 1.182 requesting a filing date of May 30, 2002, the date the missing page was filed as the filing date, the page filed on May 30, 2002, will <u>not</u> be entered. The filing date will remain November 7, 2001, and the missing page will not be entered.

---

[3] In promulgating 37 CFR 1.10, the Office also considered other types of mail service (*e.g.*, registered mail and certified mail), but chose the "Express Mail" service since this service provides, *inter alia*, a legible mailing date on the "Express Mail" label for the records of both the applicant and the Office. <u>See</u> "Revision of Patent Procedure," 48 *Fed. Reg.* at 2697, 1027 *Off. Gaz. Pat. Office* 12-13.

[4] <u>Charlson Realty Co. v. United States</u>, 690 F.2d 434, 442 (Ct. Cl. 1967).

An amendment to the specification deleting references to the missing page should be filed prior to the first USPTO action in order to avoid further delays in the examination of the application.

If petitioner desires for the examiner to consider a page which were not submitted as part of the original disclosure, then petitioner may seek to submit some or all of the page as an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter. See MPEP 608.02(a).

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

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

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

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

If a request of reconsideration, or petition under 37 CFR 1.182, is not filed within two months, the file will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of November 7, 2001, using only the application papers filed on that date.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 6

STEVEN P. WIGMORE
KING & SPALDING
45TH FLOOR
191 PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30303

MAIL

OCT 03 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Stephen A. Thomas :
Application No. 10/045,652 :
Filed: October 26, 2001 :
For: METHOD AND SYSTEM FOR PROCESSING DOWNSTREAM PACKETS OF 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 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

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

DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON, OR 97008

Mail Date: 04/21/2010

Applicant	: Hugh L. Brunk	: DECISION ON REQUEST FOR
Patent Number	: 7607016	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/045,654	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/26/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2374** 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. 8

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SEP 25 2002

OFFICE OF PETITIONS

HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY, CA 94019

In re Application of
Morrison, et al.
Application No. 10/045,657
Filed: November 7, 2001
Atty. Dkt. No.: ARTM 1011-4
For: TISSUE SEPARATOR ASSEMBLY AND METHOD

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed August 12, 2002.

The petition is **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 November 7, 2001 without an executed oath or declaration and naming George Morrison, William Dubrul, and Robert Laird as joint inventors. Accordingly, on March 12, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, 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 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 (2) stated above. An acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 37 CFR 1.64 has not been presented. The declaration presented with the instant petition is not acceptable as it contains alterations that have not been initialed as required by 37 CFR 1.52(c). Any renewed petition must be accompanied by a proper oath or declaration in full compliance with 37 CFR 1.63 and 37 CFR 1.64.

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. 11

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DEC 1 0 2002

OFFICE OF PETITIONS

HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY, CA 94019

In re Application of
Morrison, et al.
Application No. 10/045,657
Filed: November 7, 2001
Atty. Dkt. No.: ARTM 1011-4
For: TISSUE SEPARATOR ASSEMBLY AND METHOD

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed November 27, 2002.

The petition is **GRANTED**.

Petitioner has shown that inventor Robert Laird has refused to join in the filing of the above-identified application after having been presented with the application papers.

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

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

The required one month extension of time has been charged to deposit account No. 50-0869 as authorized in the instant petition.

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
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

KNOBBE, MARTENS, OLSON & BEAR, LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH, CA 92660

COPY MAILED

AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of :
Alwan, et al. :
Application No. 10/045,661 : ON PETITION
Filed: October 23, 2001 :
Attorney Docket No. AIRFIBE.004CP1 :

This is a decision on the papers styled, "Petition To Establish Prior Receipt In The P.T.O. Of Item(s) Considered As Omitted By The P.T.O." filed on May 7, 2002 (Certificate of Mailing Date: May 1, 2002), which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of October 23, 2001, including Figure 5 as described in the specification.

The application was filed on October 23, 2001. However, on March 5, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Missing Parts Of Nonprovisional Application" that stated the application had been accorded a filing date, but Figure 5 as described in the specification appears to have been omitted.

In response, on May 7, 2002, the instant petition and a copy of Figure 5 as described in the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of twenty-six (26) sheets of drawings on October 23, 2001. The twenty-six (26) sheets of drawings contain Figures 1-29. A review of the application file indicates the presence of only twenty-five (25) sheets of drawings with the sheet containing Figure 5 missing. It is assumed that missing sheet of drawings containing Figure 5 was misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee submitted on May 7, 2002 will be refunded to deposit account no. 11-1410.

This application will be returned to OIPE for further processing with a filing date of October 23, 2001, using the copy of Figure 5 as described in the specification, supplied on May 7, 2002.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO CA 95014

COPY MAILED

APR 11 2005

OFFICE OF PETITIONS

In re Application of :
Hunter :
Application No. 10/045,662 : ON PETITION
Filed: October 18, 2001 :
Attorney Docket No. ELECP006C1 :
For: SYSTEM AND METHOD FOR GENERATING AN ANIMATABLE CHARACTER

This is a decision on the petition under 37 CFR 1.137(b), filed on August 31, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to properly and timely reply to the February 24, 2004 final Office action which set an extendable three (3) month period for reply. An amendment after final, filed May 3, 2004 (certificate of mailing date April 29, 2004), failed to place this application in *prima facie* condition for allowance. Therefore, this application became abandoned on May 25, 2004. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Applicant has submitted a RCE and required fee and amendment in reply to the February 24, 2004 final Office action, an adequate statement of the unintentional nature of the delay in responding to the February 24, 2004 final Office action, and the petition fee.[1]

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center 2600's technical support staff for processing the RCE and amendment filed on August 31, 2004.

[1] Pursuant to petitioner's authorization, deposit account no. 50-0685 will be charged a $770.00 RCE fee and a $1,330.00 1.137(b) petition fee.

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

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO CA 92122

COPY MAILED

JUN 05 2002

OFFICE OF PETITIONS

In re Application of James L. Jason, Jr.. Application No. 10/045,671 Filed: October 22, 2001 Attorney Docket No. 10559/502001/P11794 For: DETERMINING PACKET SIZE IN NETWORKING	DECISION GRANTING PETITION

This is a decision on the petition entitled, "PETITION UNDER 37 CFR 1.182," filed May 7, 2002 (certificate of mailing date April 26, 2002), requesting, in effect, partial withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice) insofar as the Notice stated that page 10 of the specification appeared to have been omitted. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on October 22, 2001. On March 1, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner that page 10 of the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that page 10 of the specification be accorded a filing date of October 22, 2001 on the basis that 11 pages of specification, including page 10, were received in the Patent and Trademark Office (PTO) on October 22, 2001. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing October 22, 2001 as the date of receipt. The postcard lists, *inter alia*, that the filing included 11 pages of specification.

The return postcard constitutes *prima facie* evidence that 11 pages of specification, including page 10, were filed on October 22, 2001. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioner's authorization, the $130.00 petition fee will be credited to deposit account no. 06-1050.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of October 22, 2001, the copy of page 10 submitted with the instant petition. Office records will be corrected to show that 11 pages of specification were present on filing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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LOWRIE, LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

MAILED

MAR 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Robert C. Ladner, et. al.	:	
Application No. 10/045,674	:	DECISION ON PETITION
Filed: October 25, 2001	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. D2033-708931	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 18, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

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

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

This application is being forwarded to Technology Center Art Unit 1639 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/045,674	10/25/2001	1639	3620	D2033-708931	116	29

CONFIRMATION NO. 2458

CORRECTED FILING RECEIPT

37462
LOWRIE, LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

OC000000035044604

Date Mailed: 03/18/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Robert C. Ladner, Ijamsville, MD;
Edward H. Cohen, Belmont, MA;
Horacio G. Nastri, Newton, MA;
Kristin L. Rookey, Revere, MA;
Rene Hoet, Maastricht, NETHERLANDS;
Hendricus Renerus Jacobus Mattheus Hoogenboom, Maastricht, NETHERLANDS;

Assignment For Published Patent Application

Dyax Corp., Cambridge, MA

Power of Attorney: The patent practitioners associated with Customer Number 37462

Domestic Priority data as claimed by applicant

This application is a CIP of 10/000,516 10/24/2001 ABN
which is a CIP of 09/837,306 04/17/2001 ABN
which claims benefit of 60/198,069 04/17/2000

Foreign Applications

If Required, Foreign Filing License Granted: 03/12/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/045,674**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Novel methods of constructing libraries comprising displayed and/or expressed members of a diverse family of peptides, polypeptides or proteins and the novel libraries

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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MAY 17 2006

TECHNOLOGY CENTER 2100

Robert C. Kowart
P.O. Box 398
Austin, TX 78767-0398

In re Application of: Byrne, et al.	)
Application No. 10/045,682	) DECISION ON PETITION FOR
Attorney Docket No. 5681-06200	) SUPERVISORY REVIEW REGARDING
Filed: 10/29/2001	) FINALITY OF RESTRICTION
For: MACRO-BASED ACCESS	) REQUIREMENT UNDER 37 CFR
CONTROL	) §1.144

This is in response to the petition filed on April 27, 2006, under 37 CFR 1.144 requesting supervisory review of the finality of a restriction requirement made in the Final Office action mailed on January 17, 2006. Note, A petition under 37 CFR §1.144 will not be considered if reconsideration of the requirement was not requested (see §1.181).

The petition is **GRANTED**.

RECENT PROSECUTION HISTORY

(1) An election by original presentation restriction requirement was mailed in the final Office action on January 17, 2006, in which original claims 1-44 were acknowledged as having been canceled and newly added claims 45-88 were subject to an election by original presentation restriction requirement.

(2) On February 20, 2006, an after final response was filed, traversing the restriction requirement set forth in the final Office action and requested reconsideration of same.

(3) On March 23, 2006, the Examiner issued an advisory action setting forth additional details of the restriction requirement made in the final Office action and thus made such requirement final.

(4) On April 27, 2006, the instant petition was filed by Petitioner, under 37 CFR §1.144.

RELIEF REQUESTED

The instant petition under 37 CFR 1.144 requests the following relief: withdrawal of the restriction requirement of January 17, 2006 (made final in the advisory action of March 23, 2006)

ANALYSIS

Petitioner provides arguments in support of the withdrawal of the election requirement including reference to M.P.E.P. § 808, which states:

> Every requirement to restrict has two aspects: (A) the reasons (as distinguished from the mere statement of conclusion) why **>each invention< as claimed *>is< either independent or distinct >from the other(s)<; and (B) the reasons >why there would be a serious burden on the examiner if restriction is not required, i.e., the reasons< for insisting upon restriction therebetween as set forth in the following sections.

In addition, as set forth in M.P.E.P. § 808.01:

> **>The particular reasons relied on by the examiner for holding that the inventions as claimed are either independent or distinct should be concisely stated. A mere statement of conclusion is inadequate. The reasons upon which the conclusion is based should be given. For example, relative to a combination and a subcombination thereof, the examiner should point out the reasons why he or she considers the subcombination to have utility by itself or in other combinations, and why he or she considers that the combination as claimed does not require the particulars of the subcombination as claimed.
> Each relationship of claimed inventions should be similarly treated and the reasons for the conclusions of distinctness or independence set forth. Form paragraphs 8.01, 8.02, and 8.14 - 8.20.02 may be used as appropriate to explain why the inventions as claimed are independent or distinct. See MPEP § 806.05 - § 806.06.<

The final Office action of January 17, 2006 merely identifies the two groups or sets of claims and their indicated classification i.e. Group I, claims 1-44, class 707 subclass 10 and Group II, Claims 45-88, class 709 subclass 229. Thus the Office action fails to provide the reasons why each invention as claimed is deemed to be independent and distinct from the other and the reasons why there would be a serious burden on the examiner if the restriction is not required.

Thus, and in accordance with M.P.E.P. § 808 and § 808.01, the election by original presentation restriction requirement of January 17, 2006, as set forth in the final Office action, is incomplete and therefore deemed to be improper.

The petition is **GRANTED**. The final Office action and restriction requirement is hereby **VACATED**.

The application is being forwarded to the Technology Support Staff to **WITHDRAW** the final Office action, to **ENTER** the after final response filed February 20, 2006 in accordance with M.P.E.P. § 706.07(e) and then **FORWARD** to the Examiner for appropriate action i.e. consideration of the amendment filed November 2, 2005, consistent with this decision.

Should the Examiner maintain the position with respect to the newly presented claims being drawn to an invention that is independent and distinct from the originally claimed invention, attention is directed to M.P.E.P. 714.19(N) which states:

> (N) An amendment canceling all claims drawn to the elected invention and presenting only claims drawn to the nonelected invention ***should not be entered. Such an amendment is nonresponsive.*** Applicant should be notified as directed in MPEP § 714.03 and § 714.05. See MPEP § 821.03.

Any inquiries related to this decision may be directed to the undersigned at (571) 272-3595.

Brian L. Johnson, SPRE
Technology Center 2100
Computer Architecture, Software, and Information Security

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)
6745703	2004-06-08	10/045,695	2001-10-26	VTEC-1002

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	/Julio Loza/	Date (YYYY-MM-DD)	2009-02-27
Name	Julio Loza	Registration Number	47758

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6745703
Issue Date: June 8,2004
Application No. 10045695
Filed: October 26,2001
Attorney Docket No. 40984

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

This is a decision on the electronic petition, filed February 27,2009 ,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 27,2009 . 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.

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)
6758148	2004-07-06	10/045,696	2001-10-26	VTEC-1003

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	/Julio Loza/	Date (YYYY-MM-DD)	2009-02-27
Name	Julio Loza	Registration Number	47758

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. 6758148
Issue Date: July 6,2004
Application No. 10045696
Filed: October 26,2001
Attorney Docket No. 7001-5

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

This is a decision on the electronic petition, filed February 27,2009 ,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 27,2009 . 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

Summa and Allan, PA
11610 North Community House Road
Suite 200
Charlotte, NC 28277

COPY MAILED

JUN 2 4 2002

OFFICE OF PETITIONS

In re Application of	:	
Tuttle et al.	:	
Application No. 10/045,766	:	DECISION GRANTING
Filed: October 23, 2001	:	PETITION
Attorney Docket No. 5000.142	:	

This is a decision on the petition filed March 22, 2002, requesting that the above-identified application be accorded a filing date of October 23, 2001, rather than the presently accorded date of January 15, 2002. The petition is properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U. S. Postal Service (USPS) as Express Mail on October 23, 2002 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EL921582080US showing an illegible handwritten "date-in". The same Express Mail receipt number appears on the original "Transmittal for Patent Application," which includes the Express Mail label number. Additionally, the Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated October 23, 2001 on the cover page for the application papers. Petitioner has provided other evidence; a copy of the USPS Product Tracking System – Label Event Details and a copy of the USPS Web Page Shipment History for Express Mail label No. EL921582080US.

In view of the evidence provided, the USPS Product Tracking System – Label Event Details and the USPS Shipment History, it is concluded that the application was deposited as "Express Mail" with the USPS on October 23, 2001.

This application file is being forwarded to the Office of Initial Patent Examination Division for further **processing with a filing date of October 23, 2001.** Thereafter, the application file will be forwarded to Technology Center 2811 for examination in due course.

Telephone inquiries concerning this matter may be directed to Marianne Morgan at (703) 306-3475.

Brian Hearn

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

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JUN 18 2003

OFFICE OF PETITIONS

AT&T CORP.
P.O. BOX 4110
MIDDLETOWN NJ 07748

In re Application of	:	
Sandra Lynn Carrico and Philippe Hebrais	:	
Application No. 10/045,786	:	DECISION DISMISSING PETITION
Filed: January 11, 2002	:	UNDER 37 C.F.R. §1.137(F) AS MOOT
Atoenry Docket No.: 2001-0416	:	
Title: IPSEC THROUGH L2TP	:	

This is a decision on the petition filed on May 21, 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 country or an international application on January 3, 2003.

On December 30, 2002, a Request to Rescind the Nonpublication Request was filed with the Office. Therefore, the Nonpublication Request was rescinded prior to the foreign filing. If an applicant makes a nonpublication request and then rescinds the nonpublication request before or on the date a counterpart application is filed in an eighteen-month publication country, the application will be treated as if the nonpublication request were never made[2].

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 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. §

37 C.F.R. §1.137(f) requires a statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(f), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(f) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

For the reason set forth above, the petition under 37 C.F.R. §1.137(f) is **DISMISSED AS MOOT**.

As such, no petition fee is necessary. The petition fee has not been charged to petitioner's Deposit Account.

After the mailing of this decision, the application file will be forwarded to Technology Center 2100 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

122(b)(2)(B)(ii)) the nonpublication request before or on the date a counterpart application is filed in an eighteen-month publication country, the nonpublication request under 35 U.S.C. § 122(b)(2)(B)(i) will be treated as annulled and the application will be treated as if the nonpublication request had never been made. See http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 8

FAY KAPLUM & MARCIN, LLP
17TH FLOOR
100 MAIDEN LANE
NEW YORK, NY 10038

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MAY 14 2004

OFFICE OF PETITIONS

In re Application of	:	
John et al.	:	
Application No. 10/045,799	:	ON PETITION
Filed: January 10, 2002	:	
Attorney Docket No. 50124/00303	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 26, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed July 10, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, this application became abandoned on October 11, 2003.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $475.00 extension of time fee submitted with the petition on January 26, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

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

The file is now being forwarded to Technology Center 3700 for further examination on the merits.

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

Liana Chase

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

cc: FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

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

FAY KAPLUM & MARCIN, LLP
17TH FLOOR
100 MAIDEN LANE
NEW YORK, NY 10038

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MAY 14 2004
OFFICE OF PETITIONS

In re Application of
John et al.
Application No. 10/045,799
Filed: January 10, 2002
Attorney Docket No. 50124/00303

ON PETITION

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The petition is **GRANTED.**

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

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

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MAY 26 2004
TECHNOLOGY CENTER R3700

cc: FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

UNITED STATES 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

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NEW YORK, NY 10038

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MAY 14 2004

OFFICE OF PETITIONS

In re Application of	:	
John et al.	:	
Application No. 10/045,799	:	ON PETITION
Filed: January 10, 2002	:	
Attorney Docket No. 50124/00303	:	

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The file is now being forwarded to Technology Center 3700 for further examination on the merits.

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

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

cc: FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

IP Department
Schnader Harrison Segal & Lewis
36th Floor
1600 Market Street
Philadelphia, PA 19103

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JUN 0 8

OFFICE OF PETITIONS

In re Application of	:	
Nakamaru et al.	:	
Application No. 10/045,848	:	DECISION ON PETITION
Filed: November 7, 2001	:	
Attorney Docket No. 1315-01	:	

This is a decision on the petition filed April 11, 2002, requesting, in effect, that pages 2, 3, 13, 17, and 19 filed on April 11, 2002, be entered as part of the original disclosure.

The petition is **dismissed**.

The application was filed on November 7, 2001. On March 4, 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 7, 2001, and advising applicants that pages 2, 3, 13, 17, and 19 appeared to have been omitted.

In response, the present petition was filed. Petitioner alleges that pages 2, 3, 13, 17, and 19 were filed with the original application.

All the evidence present in the file has been carefully considered, but is not persuasive that pages 2, 3, 13, 17, and 19 were submitted with the original application.

The last portion of MPEP 513 states,

> Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application) ... The Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g. a postcard receipt . . . .

MPEP 503 states (emphasis added),

> The identifying data on the postcard should include:
> (A) applicant's name(s);
> (B) title of invention;
> (C) **number of pages of specification, claims (for nonprovisional applications), and sheets of drawing**;
> (D) whether oath or declaration is included;
> (E) a list of any additional forms included with the application (e.g., application transmittal form, application data sheet, fee transmittal form, and/or provisional application cover sheet); and
> (F) amount and manner of paying the fee

A return postcard should be attached to each patent application for which a receipt is desired.

It is important that the return postcard itemize all of the components of the application. **If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO)**. . . .

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.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. **The postcard should also identify the type of paper being filed**, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., **and the number of pages being submitted.** If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., **the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).**

The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as prima facie evidence of receipt of those items.

While petitioner apparently believes that the missing pages were filed on November 7, 2001, the file[1] of application No. 10/045,848 shows that the pages were not received, since no such papers are present in the file. An applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

Since applicants have not filed a petition under 37 CFR 1.182 requesting a filing date of April 11, 2002, the date the missing pages were filed, as the filing date, the pages filed on April 11, 2002, will <u>not</u> be entered.

An amendment to the specification deleting references to the missing pages should be filed prior to the first USPTO action in order to avoid further delays in the examination of the application.

If petitioner desires for the examiner to consider pages which were not submitted as part of the original disclosure, then petitioner may seek to submit some or all of those pages as an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter. See MPEP 608.02(a).

---

[1] The file contains the actual papers received and the file is an official government record prepared and maintained by disinterested USPTO employees as a part of the [illegible] and [illegible] duties.

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

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

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

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

If a request of reconsideration, or petition under 37 CFR 1.182, is not filed within two months, the file will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of November 7, 2001, using only the application papers filed on that date.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

IP Department
Schnader Harrison Segal & Lewis
36th Floor
1600 Market Street
Philadelphia, PA 19103

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JUL 17 2

OFFICE OF PETITIONS

In re Application of :
Nakamaru et al. :
Application No. 10/045,848 : DECISION ON PETITION
Filed: November 7, 2001 :
Attorney Docket No. 1315-01 :

This is a decision on the renewed petition filed June 24, 2002, requesting, in effect, that pages 2, 3, 13, 17, and 19 filed on April 11, 2002, be entered as part of the original disclosure.

The petition is **dismissed**.

The application was filed on November 7, 2001. On March 4, 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 7, 2001, and advising applicants that pages 2, 3, 13, 17, and 19 appeared to have been omitted.

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> The identifying data on the postcard should include:
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> (B) title of invention;
> (C) **number of pages of specification, claims (for nonprovisional applications), and sheets of drawing**;
> (D) whether oath or declaration is included;
> (E) a list of any additional forms included with the application (e.g., application transmittal form, application data sheet, fee transmittal form, and/or provisional application cover sheet); and
> (F) amount and manner of paying the fee

> A return postcard should be attached to each patent application for which a receipt is desired.
>
> It is important that the return postcard itemize all of the components of the application. **If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO)**. . . .
>
> 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.
>
> The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. **The postcard should also identify the type of paper being filed**, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., **and the number of pages being submitted.** If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., **the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).**
>
> **The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard.** For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as prima facie evidence of receipt of those items.

While petitioner apparently believes that the missing pages were filed on November 7, 2001, the file of application No. 10/045,848 shows that the pages were not received, since no such papers are present in the file. An applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. Petitioner has submitted declarations from two individuals attesting that the papers were present. Declarations alone, without corroborating evidence, are normally insufficient to establish a filing date or to establish the contents of an application.[illegible] In this case, the evidence submitted is not

---

[illegible] *Federal Register* at 48 [illegible] 1985 [illegible] the Patent and Trademark Office *Official Gazette* at 1027 *Official Gazette Patent Office* 9 February 1, 1985 [illegible] stated that he found the idea of using a declaration or affidavit to establish a date of [illegible] the integrity of the assignment of filing dates to the risk of deception. Reply [illegible] intended to help explain activities which are to be supported by exhibits. For example [illegible] "Express Mail" mailing label could accompany [illegible] to establish a filing date.

Hongsbaroy v. Lehman, 905 F. Supp. 8, 37 USPQ2d 1737 [illegible] declarations and copies of two papers [illegible] petition for a filing date or [illegible] Express Mail receipt showing the actual date [illegible]

more probative of what was actually received by the Office than the file wrapper which contains the papers received and is an official government record prepared and maintained by disinterested USPTO employees as a part of their customary and usual duties.

Since applicants have not filed a petition under 37 CFR 1.182 requesting a filing date of April 11, 2002, the date the missing pages were filed, as the filing date, the pages filed on April 11, 2002, will not be entered. Although the current petition is labeled "Petition Under 37 C.F.R. § 1.182," petitioner does not request a filing date of April 11, 2002, and therefore the filing date will remain November 7, 2001, and the missing drawings will not be entered.

An amendment to the specification deleting references to the missing pages should be filed prior to the first USPTO action in order to avoid further delays in the examination of the application.

If petitioner desires for the examiner to consider pages which were not submitted as part of the original disclosure, then petitioner may seek to submit some or all of those pages as an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter. See MPEP 608.02(a).

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

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

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

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

If a request of reconsideration, or petition under 37 CFR 1.182, is not filed within two months, the file will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of November 7, 2001, using only the application papers filed on that date.

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

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

The materials plaintiff gathered together [illegible] Express Mail label that is undated and bears no evidence of any U.S. Postal Service [illegible] the Patent and Trademark Office is corroborated by anything outside the office of the [illegible] Patent and Trademarks that these circumstances [illegible]

The decision was for the Commissioner [illegible] presented to me that the Commissioner's decision was arbitrary [illegible] without opinion. 95 F.3d 1166 [illegible]

UNITED STATES PATENT AND TRADEMARK OFFICE

Paper No. 8

IP Department
Schnader Harrison Segal & Lewis
36th Floor
1600 Market Street
Philadelphia, PA 19103

In re Application of	:	
Nakamaru et al.	:	
Application No. 10/045,848	:	DECISION ON PETITION
Filed: November 7, 2001	:	
Attorney Docket No. 1315-01	:	

This is a decision on the renewed petition filed August 29, 2002, requesting, in effect, that pages 2, 3, 13, 17, and 19 filed on April 11, 2002, be entered as part of the original disclosure.

The petition is **dismissed**.

The application was filed on November 7, 2001. On March 4, 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 7, 2001, and advising applicants that pages 2, 3, 13, 17, and 19 appeared to have been omitted.

Petitioner alleges that pages 2, 3, 13, 17, and 19 were filed with the original application.

All the evidence present in the file has been carefully considered, but is not persuasive that pages 2, 3, 13, 17, and 19 were submitted with the original application.

The postcard receipt:

Petitioner argues that the postcard receipt was properly itemized. A postcard receipt is prima facie evidence because, upon receipt of the application, a disinterested individual compares the postcard receipt to the contents of the application. The individual ensures each item listed on the postcard is present and then the postcard is returned to applicant. If the postcard lists "Specification," the individual will review the application to see if a specification is present. The individual will not count the number of pages of specification or read the specification to see if pages may be missing. If the postcard lists "10 pages of specification," then the individual will review the application to see if 10 pages of specification are present. Petitioner's postcard only proves that the individual who reviewed the application and postcard verified that a specification was present. The Office does not dispute that a specification was filed on November 7, 2001, and if such a dispute arose, the postcard receipt would serve as prima facie evidence that something purporting to be a specification was filed on November 7, 2001. The Office disputes the number of pages of specification filed. Since the individual who mailed the postcard back to applicant did not count the number of pages of specification, the receipt of the return postcard cannot serve as evidence that pages 2, 3, 13, 17, and 19 were present.

The declarations submitted:

The order of review of the application papers is unclear. Apparently, Regina Belitz reviewed the papers and then gave them to Daniel Christenbury. Subsequently, Christenbury and Ginola Johnson reviewed the papers, whereupon one of these individuals placed the application in the envelope

Petitioner raises the issue as to the extent to which declarations should be accepted to establish a filing date for an application or portions of an application. The Commissioner has refused to accept mere declarations in order to prove the filing date of an application. The contents of an application are just as critical as the filing date for an application. Regarding the filing date issue, the Office expressly rejected reliance solely on evidence from an applicant when the Office rejected the use of 37 CFR 1.8 for purposes of obtaining a filing date.[1] 37 CFR 1.8 provides a procedure by which the timely filing of papers and fees deposited with the U.S. Postal Service may be established *without independent corroboration by an employee of the U.S. Postal Service.* The criticality of an application filing date was considered adequate to justify independent verification by an employee of the U.S. Postal Service of the date of deposit of the application papers with the U.S. Postal Service. Put simply, the insertion by a disinterested employee of the U.S. Postal Service of the date of deposit in the U.S. Postal Service by Express Mail on the Express Mail label of the envelope containing application papers is the *raison d'être* of 37 CFR 1.10.[2] Postal employees are presumed to discharge their duties in a proper manner.[3]

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[1] *Federal Register* at 48 *Fed. Reg.* 2696 (January 20, 1983), and in the Patent and Trademark Office *Official Gazette* at 1027 *Off. Gaz. Pat. Office* 9 (February 1, 1983) ("Comment: One person commented that he found the idea of using a declaration or affidavit to establish a date of deposit unacceptable because it exposes the integrity of the assignment of filing dates to the risk of deception. Reply: The use of declarations or affidavits is usually intended to help explain activities which can be supported by exhibits. For example, if the Office copy of the mailing label was not entirely readable, applicant's copy of the "Express Mail" mailing label could accompany a declaration and serve as the basis for granting a filing date.")

Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995) ("Plaintiff thereafter submitted three affidavits, a declaration, and copies of two pages of records from his attorney's law firm, but the Commissioner finally denied plaintiff's petition for a filing date on the grounds that, if plaintiff had used Express Mail properly, he would have had an Express Mail receipt showing the actual date of mailing, and that the materials later submitted by the plaintiff were not good enough proof.

The materials plaintiff gathered together included a photocopy copy of an Express Mail label that is undated and bears no evidence of any U.S. Postal Service handling. Nothing submitted by plaintiff to the Patent and Trademark Office is corroborated by anything outside the office of the submitting counsel. It was the view of the Commissioner of Patent and Trademarks that these circumstances did not establish the extraordinary conditions that might warrant a waiver.

The decision was for the Commissioner to make, and I cannot find on the basis of the record presented to me that the Commissioner's decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."), aff'd without opinion, 95 F.3d 1166 (Fed. Cir. 1996).

[2] The final rulemaking published on January 20, 1983, at 48 FR 2696-2714 and on February 1, 1983, at 1027 O.G. 9, contains the following comment:

> Comment: Two comments were received which proposed that only a certificate of mailing procedure as in § 1.8(a) be used for determining the date of deposit under 35 U.S.C. § 21.
>
> Reply: The filing date of an application is considered to be much more critical than the filing dates of papers accepted under § 1.8(a). The application filing date is often critical for determining if a statutory bar exists, whether foreign priority can be claimed and who is the senior party in an interference. Therefore, papers filed for purposes of receiving an application filing date should have some clear indication of the date of receipt by the United States Postal Service. Such a practice would also probably require storing all of the envelopes in the file wrapper for record purposes.

As explained in the final rulemaking, Express Mail service was found to be preferable because "a readily legible mailing date is provided to both the applicant and the Patent and Trademark Office on the 'Express Mail' label."

[3] In promulgating 37 CFR 1.10, the Office also considered other types of mail service [illegible] registered mail and certified mail, but chose the "Express Mail" service since this service provides [illegible] a legible mailing date on the "Express Mail" label for the records of both the applicant and the Office. See "Revision of Patent Procedure," 48 [illegible] at 2697 [illegible] 12-13.

[4] Charlson Realty Co. v. United States, 696 F.2d 434, 442 (Ct. Cl. 1967).

Petitioner has failed to establish that the Office should accept declarations as proof that portions of an application were submitted on the date of filing of the rest of the application.

Petitioner also argues that the pages may have been lost due to actions by the USPS. Petitioner states that the postcard receipt was discolored and brittle when received. A review of the papers in the file indicate that the application papers are not damaged. The file does not indicate whether or not the postcard was damaged prior to receipt by the Office or after the Office mailed the postcard back to applicant. Petitioner states that for UV radiation to be effective, "each sheet would require UV exposure." The Office is not aware of the USPS or any government agency routinely opening envelopes rather than radiating or treating the outside of the envelope. It is acknowledged that chemicals used on the outside of the envelope may seep through the envelope and damage papers inside. However, the present issue is whether the pages were actually received by the Office and not the condition of the papers when received by the Office.

Since applicants have not filed a petition under 37 CFR 1.182 requesting a filing date of April 11, 2002, the date the missing pages were filed, as the filing date, the pages filed on April 11, 2002, will not be entered. Although the current petition is labeled "Petition Under 37 C.F.R. § 1.182," petitioner does not request a filing date of April 11, 2002, and therefore the filing date will remain November 7, 2001, and the missing drawings will not be entered.

An amendment to the specification deleting references to the missing pages should be filed prior to the first USPTO action in order to avoid further delays in the examination of the application.

If petitioner desires for the examiner to consider pages which were not submitted as part of the original disclosure, then petitioner may seek to submit some or all of those pages as an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter. See MPEP 608.02(a).

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

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

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

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

If a request of reconsideration, or petition under 37 CFR 1.182, is not filed within two months, the file will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of November 7, 2001, using only the application papers filed on that date.

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

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

Paper No. 11

IP Department
Schnader Harrison Segal & Lewis
36th Floor
1600 Market Street
Philadelphia, PA 19103

In re Application of	:	
Nakamaru et al.	:	
Application No. 10/045,848	:	DECISION ON PETITION
Filed: November 7, 2001	:	
Attorney Docket No. 1315-01	:	

This is a decision on the renewed petition filed November 18, 2002, requesting, in effect, that pages 2, 3, 13, 17, and 19 filed on April 11, 2002, be entered as part of the original disclosure.

The petition is **granted**.

The application was filed on November 7, 2001. On March 4, 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 7, 2001, and advising applicants that pages 2, 3, 13, 17, and 19 appeared to have been omitted.

Petitioner alleges that pages 2, 3, 13, 17, and 19 were filed with the original application.

All the evidence present in the file has been carefully considered, and is persuasive that pages 2, 3, 13, 17, and 19 were submitted with the original application. The copy of the missing pages submitted on April 11, 2002, will be used for examination purposes.

The Notice mailed March 4, 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 7, 2001, using the application papers filed on November 7, 2001, and the copy of pages 2, 3, 13, 17, and 19 of the specification filed on April 11, 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

Paper No. 7

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY, CA 94704-0778

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SEP 2 6 2003

OFFICE OF PETITIONS

In re Application of
Sanjaya Kumar, et al.
Application No. 10/045,883
Filed: January 9, 2002
Attorney Docket No. ANDIP007

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

This is a decision on the petition, filed August 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**.

The instant nonprovisional application is the subject of an application filed in an eighteen month publication country on December 23, 2002. However, petitioner states that 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 2183 for examination in due course.

Sherry D. Brinkley

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

Conferee: Frances M. Hicks
Lead Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STEPHEN T. KEOHANE
314 MAIN STREET
OWEGO NY 13827-1616

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MAR 2 1 2005

OFFICE OF PETITIONS

In re Application of	:	
William S. Andreas et al.	:	
Application No. 10/045920	:	DECISION ON PETITION
Filed: January 9, 2002	:	
Attorney Docket No. LOT920010029US1	:	

This is a decision on the petition under 37 CFR §1.137(b), filed December 22, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned, by operation of law, for failure to timely pay the issue fee and publication fee as required by the Notice of Allowance mailed on August 24, 2004. This notice set a statutory period for reply of three months. No issue fee having been received, the above-identified application became abandoned on November 25, 2004. No Notice of Abandonment was sent to Petitioner.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR §137(b) in that (1) the reply in the form of an issue fee of $1400; (2) the petition fee of $1400; and (3) the required statement of unintentional delay have been received.

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

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

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

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

cc: IBM Corporation
1 Rogers Street
Cambridge MA 02142

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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NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

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JUN 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Chien-Hsin Lin, et al.	:	
Application No. 10/045,929	:	DECISION ON PETITION
Filed: October 26, 2001	:	
Attorney Docket No. US018144	:	

This is a decision on the petition, filed April 30, 2009, to revive the above-identified application under the unintentional provisions of 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. However, in accordance with 37 CFR 1.34(a), the signature of Thomas H. Ham appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Ham desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 7, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became

abandoned on May 8, 2005. A Notice of Abandonment was mailed April 14, 2006.

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

<u>As to Period (1):</u>

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. <u>See</u> H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned

application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 4 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional. As petitioner was not associated with this case at the time of abandonment, the statement of unintentional delay by Thomas H. Ham - who was not the counsel at record at the time of abandonment, is not persuasive.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on May 8, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS

16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, almost 4 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

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

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

By Internet: EFS-Web[1]

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: THOMAS H. HAM
WILSON & HAM
PMB: 348
2530 BERRYESSA ROAD
SAN JOSE, CA 95132

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

NXP, B.V.
NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

In re Application of
Chien-Hsin Lin
Application No. 10/045,929
Filed: October 26, 2001
Attorney Docket No. US018144

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed February 7, 2005. A Notice of Abandonment was mailed on April 14, 2006. On April 30, 2009, a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed June 10, 2009. In response, on October 13, 2009, the present petition was filed, wherein an explanation of the delay has been provided.

This application has been abandoned for an extended period of time. The U.S. 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 U.S. Patent and Trademark Office).

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2622 for consideration of the amendment filed April 30, 2009.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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MAY - 6 2005

DOUGLAS A. PETRY
BECTON, DICKINSON AND COMPANY
LAW DEPARTMENT
1 BECTON DRIVE
FRANKLIN LAKES, NJ 07417-1880

In re Application of	:
Kenneth A. Davis et al	:
Serial No.: 10/045,949	: PETITION DECISION
Filed: January 11, 2002	:
Attorney Docket No.:	:

This is in response to the petition under 37 CFR 1.181, filed February 3, 2005, requesting withdrawal of abandonment based non-receipt of an Office action.

A review of the file history shows that this application was filed with an ADS (Application Data Sheet) in which the correspondence address was listed as Customer No. 01473, which is the address for FISH & NEAVE, LLP. The unsigned declaration, however, contained as a correspondence address, the address listed above. A later filed signed declaration also contained the address listed above. However, no corrected ADS was filed and the correspondence address was not changed. An Associate Power of Attorney filed prior to the signed declaration listed a San Jose, CA, address different from that above. Where an ADS is filed the correspondence address is taken from the ADS unless changed by submission of a new Power of Attorney or ADS. Such has not been done here. Further, it is clear that the failure to include a correct correspondence address lies with applicants. It is also noted that the petition contains no return correspondence address, only a Customer No. In view of applicants providing an incorrect correspondence address and other alternative addresses the Office was not in error in mailing the Office action to the correspondence address thought to be correct. In view of the above facts, the application cannot be revived under 37 CFR 1.181.

The petition is **DENIED**.

Applicants may file a petition under 37 CFR 1.137(b) for revival of this application. Any such petition must be filed within TWO MONTHS of the mailing date of this decision in order to be considered timely.

A copy of the non-received Office action accompanies this decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

Jasemine C. Chambers
Director, Technology Center 1600

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Alexandria, VA 22313-1450
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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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AUG 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Kenneth A. Davis et al	:	
Application No. 10/045,949	:	DECISION GRANTING PETITION
Filed: January 11, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. BDIS-20	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 13, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement of May 12, 2004, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1644.

Karen Creasy

Karen Creasy
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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Alexandria, VA 22313-1450
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Paper No. 19

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET, SUITE 4700
DENVER, CO 80202-5647

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OFFICE OF PETITIONS

In re Application of
Joe W. Cacka et al
Application No. 10/045,953
Filed: January 12, 2002
Attorney Docket No. 5882.02

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

This is a decision on the petition, filed September 19, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 15, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1744 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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

Paper No. 5

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

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JUL 17 2002

OFFICE OF PETITIONS

In re Application of :
Alagar et al. :
Application No. 10/045,955 : DECISION GRANTING PETITION
Filed: November 6, 2001 :
Attorney Docket No.014940-001910US :

This is a decision on the petition filed May 31, 2002, requesting that Figures 42 and 43 described in the specification be accorded a filing date of November 6, 2001, as part of the original disclosure.

On November 6, 2001, applicants filed the above-identified application. On April 4, 2002, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of November 6, 2001, and requiring applicants to submit the statutory basic filing fee, additional claim fees, an executed oath or declaration, a surcharge, and substitute drawings in compliance with 37 CFR 1.84. Additionally, the Notice advised applicants that Figures 42 and 43 described in the specification appeared to have been omitted.

In response, on May 31, 2002, applicants filed, inter alia, the present petition, a copy of one (1) sheet of drawings, containing Figures 42 and 43, the petition fee, and substitute drawings. The petition was accompanied by a copy of applicants' postcard receipt acknowledging receipt of 38 sheets of drawings on November 6, 2001.

In the present petition, applicants requested that the application, including Figure 42 and 43, be accorded a filing date of November 6, 2001, and the petition fee be refunded.

Upon review of the record, Figures 42 and 43, deposited on November 6, 2001, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on November 6, 2001, included Figures 42 and 43, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figures 42 and 43, was complete on filing and entitled to a filing date of November 6, 2001.

Accordingly, the petition is granted.

The requirement for the omitted items was sent in error and is hereby vacated. Accordingly, the petition fee is unnecessary and will be credited to Deposit Account No. 20-1430.

The application file is being forwarded to the Office of Initial Patent Examination for review of the substitute drawings and for further processing with a filing date of November 6, 2001, using the substitute drawings submitted on May 31, 2002.

Any inquiries related to this decision should be directed to Petitions Attorney Christina Tartera Donnell at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Beverly M. Flanagan

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

MASON & ASSOCIATES, PA
17757 US HWY 19 N.
SUITE 500
CLEARWATER FL 33764

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JUN 2 5 2002

OFFICE OF PETITIONS

In re Application of
Kosuna, et al.
Application No. 10/045,972
Filed: February 28, 2002
Attorney Docket No.: 1617.22B
FOR: COMPOSITION FOR THE TREATMENT OF SYMPTOMS AND CONDITIONS ASSOCIATED WITH AGING

DECISION GRANTING PETITION

This is a decision on the petition, filed February 28, 2002, requesting that the above-identified application be accorded a filing date of February 28, 2002, which is the date of submission of formal drawings. The delay in addressing the petition is due to the fact that petitioners listed an incorrect application number on the petition and the Express Mail Certificate.

The application was deposited on February 28, 2002. On February 6, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that no filing date had been accorded to the above-identified application because the application as filed did not include drawings.

In response to the Notice, a petition under 37 CFR 1.182, including three formal drawings and a newly executed declaration, was filed on February 28, 2002, requesting that the above-identified application be accorded a filing date of February 28, 2002, the date of deposit of the items noted as omitted in the "Notice of Omitted Item(s)" mailed February 6, 2002.

The above-identified application should be accorded a filing date of February 28, 2002, which is the date that all required components for a filing date were received in the Office.

The petition is granted.

No petition fee has been or will be charged.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **February 28, 2002**. The Office of Initial Patent Examination will mail a filing receipt 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

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FAY KAPLUN & MARCIN, LLP
150 Broadway
Suite 702
New York, NY 10038

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MAR 0 7 2006

OFFICE OF PETITIONS

In re Application of:
DAMARATI, John, Jairo
Application No.: 10/045,975
Filing Date: January 10, 2002
Attorney's Docket No.: 10121/02101
For: METHOD AND DEVICE FOR ENDOSCOPIC SUTURING

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) to revive the above-entitled application, filed December 23, 2005.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed February 09, 2005, which set a shortened statutory period of reply of three (3) months. Applicant filed three Amendments in response to the final Office Action, and paid for a two-month extension of time to respond. However, as indicated in the Advisory Actions mailed on April 19, 2005, July 27, 2005, and September 01, 2005, the Amendments were not sufficient to place the application in condition for allowance. Accordingly, the application was abandoned as of midnight on July 09, 2005.

On December 23, 2005, applicants filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay;[1] and (3) the required reply in the form of a Request For Continued Examination (RCE), with the required fee and an Amendment that satisfies the submission requirement of 37 CFR 1.114. Accordingly, the reply to the final Office action of February 09, 2005 (in the form of the RCE and submission) is accepted as having been unintentionally delayed.

---

[1] The Notification Of Abandonment mailed December 01, 2005 states that the Examiner "verified with applicant's representative, Mr. Kaplun, on 11/22/05 that the application is to be abandoned." However, in the present petition, Mr. Kaplun disputes this assertion, stating that while he informed the Examiner that the Notice Of Appeal was "inadvertently not timely filed," he never stated that the application was abandoned intentionally. Applicants' statements herein, including 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 this paragraph was unintentional," are therefore accepted as the required statement of unintentional delay.

The application file is being referred to Technology Center AU 3731. Telephone inquiries concerning this decision should be directed to the undersigned.

Richard M. Ross
Attorney Advisor
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 5

Christine Szwerc
AT & T Corporation
P.O. Box 4110
Middletown, NJ 07748

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OFFICE OF PETITIONS

In re Application of	:	
Matthew J. Sherman	:	
Application No. 10/045,980	:	DECISION GRANTING PETITION
Filed: January 1, 2002	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. 2001-0027	:	

This is a decision on the petition, filed May 13, 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 January 15, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until

the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 28, 2003 was mailed on May 22, 2003.

Any inquiries concerning this decision may be directed to B. Dayoan at (703) 308-3865 or, in her absence, to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 2661 for examination in due course.

Frances Hicks

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

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STEPHEN R. AUTEN
311 S. WACKER DRIVE, 53RD FLOOR
CHICAGO, IL 60606

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NOV 22 2005

OFFICE OF PETITIONS

In re Application of	:
Matthew J. Sherman	:
Application No. 10/045,980	: DECISION GRANTING PETITION
Filed: January 1, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2001-0027	:

This is a decision on the petition, filed November 14, 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 23, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The address on the petition differs from the correspondence address of record. Accordingly, if appropriate, a change of address should be submitted if it is desired to receive correspondence at the address noted on the petition. A courtesy copy of this decision is being mailed to petitioner. However, until otherwise properly instructed, all future correspondence will be mailed solely to the above address of record.

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

This matter is being referred to Technology Center AU 2665 for processing of the request for continued examination under 37 CFR 1.114 and for

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

consideration of the concurrently filed amendment and Information Disclosure Statement.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Michael N. Haynes
1341 Huntersfield Close
Keswick, VA 22947

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

Mail Date: 06/18/2010

Applicant	: Amreesh Agrawal	: DECISION ON REQUEST FOR
Patent Number	: 7640335	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/045,989	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/11/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **977** 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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ROBERT F. MANSUETO and
ROBERT W. VONHECK
57 TUNAPUNA LANE
CORONADO, CA 92118

In re Application of
Robert F. Mansueto et al.
Application No. 10/046,000
Filed: October 27, 2001
Title of Invention: HIGH-STRENGTH DENTAL -IMPLANT W/CONE-LOCKING & SWAGING ABUTMENT

ON PETITION

This is a decision on the petition filed September 6, 2006 under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on May 13, 2002, for failure to timely reply to the Notice to File Missing Parts, mailed March 12, 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 prior to the expiration of the period for reply. The instant petition and this decision precede the mailing of the Notice of Abandonment

The submission of the filing fee, and the surcharge for its late filing, as required by the Notice to File Missing Parts mailed March 12, 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 (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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 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)).

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TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

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JUN 14 2006

OFFICE OF PETITIONS

In re Application of :
Reed J. Blau :
Application No. 10/046,008 : ON PETITION
Filed: January 11, 2002 :
Attorney Docket No. 1082-035

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 23, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3641 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

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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. 7

ROBERT A. CANN
189 MILL LANE
AMHERST, MA 01002-2931

COPY MAILED
JUL 14 2004
OFFICE OF PETITIONS

In re Application of :
Robert A. Cann :
Application No. 10/046,012 : ON PETITION
Filed: January 11, 2002 :
Title: LATCH FOR SPONGE MOP :

This is a decision on the petition under 37 CFR 1.137(b), filed June 22, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed November 5, 2003. Accordingly, this application became abandoned on February 6, 2004. A Notice of Abandonment was mailed on June 9, 2004.

Please note, 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 file is being forwarded to Technology Center 1700 for review of the amendment, filed June 22, 2004.

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

UNITED STATES 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 Apr-05

LAW OFFICE OF JAY R. HAMILTON, PLC.
331 W. 3RD ST.
NEW VENTURES CENTER SUITE 100
DAVENPORT IA 52801

COPY MAILED
APR 22 2005
OFFICE OF PETITIONS

In re Application of	:	
Howard Kapple	:	
Application No. 10/046,045	:	ON PETITION
Filed: 16 January, 2002	:	
For: Precision aid	:	
	:	

This is a decision on the petition filed on 20 November, 2004, to withdraw the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. 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 (b)." This is not a final agency action.

The application became abandoned on 26 December, 2003, for failure to submit a timely response to the non-final Office action mailed on 25 September, 2003, which set a three (3)-month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 20 September, 2004.

Petitioner asserts that a timely reply was filed on 12 November, 2003, but that as petitioner, *pro se*, did not properly identify the papers as a reply to the Office action in the above-

identified case, the papers were treated as a new application by the Office, and were assigned Application No. 10/705,678. A Notice to File Missing Parts was mailed in Application No. 10/705,678 on 26 May, 2004. Petitioner submitted an additional response on 4 March, 2004, which was treated as a new application and accorded Application No. 10/792,671.

37 CFR 1.5(a) states:

> (a) No correspondence relating to an application should be filed prior to receipt of the application number from the Patent and Trademark Office. **When a letter directed to the Patent and Trademark Office concerns a previously filed application for a patent, it must identify on the top page in a conspicuous location, the application number (consisting of the series code and the serial number; e.g., 07 /123,456), or the serial number and filing date assigned to that application by the Patent and Trademark Office, or the international application number of the international application.** Any correspondence not containing such identification will be returned to the sender where a return address is available. The returned correspondence will be accompanied with a cover letter which will indicate to the sender that if the returned correspondence is resubmitted to the Patent and Trademark Office within two weeks of the mail date on the cover letter, the original date of receipt of the correspondence will be considered by the Patent and Trademark Office as the date of receipt of the correspondence. Applicants may use either the Certificate of Mailing or Transmission procedure under § 1.8 or the Express Mail procedure under § 1.10 for resubmissions of returned correspondence if they desire to have the benefit of the date of deposit in the United States Postal Service. If the returned correspondence is not resubmitted within the two-week period, the date of receipt of the resubmission will be considered to be the date of receipt of the correspondence. The two-week period to resubmit the returned correspondence will not be extended. **In addition to the application number, all letters directed to the Patent and Trademark Office concerning applications for patent should also state the name of the applicant, the title of the invention, the date of filing the same, and, if known, the group art unit or**

> **other unit within the Patent and Trademark Office responsible for considering the letter and the name of the examiner or other person to which it has been assigned.**

(emphasis added)

37 CFR 1.53(a) states:

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

A review of the official file for the above-identified applications reveals that the papers filed on 12 November, 2003, and 4 March, 2004, did not include the application number, group art unit, application filing date, or any indication that the papers were in response an application for patent. It is further noted that the examiner's name, Linh Truong, appears only on the paper filed 4 March, 2004, and on that paper Mr. Truong is not clearly identified as the relevant patent examiner. As such, the papers do not comply with 37 CFR 1.5. Without the required information, it is not possible for the Office to match the papers with the proper file.

As petitioner did not provide the required identifying application on the papers filed on 12 November, 2003, and 4 March, 2004, the Office did not err in treating them as new applications. Moreover, while it is unfortunate that applicant was unfamiliar with the rules of patent practice, such lack of knowledge does not relieve applicant of the responsibility of complying with Office regulations and procedures. As the application became abandoned due to a mistake on the part of the applicant rather than the USPTO, the holding of abandonment will not be withdrawn.

ALTERNATIVE VENUE

Petitioner 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).

Should petitioner decide to file a petition under 37 CFR 1.137(b), the additional petition fee due would be $1,500.00 for other than a small entity.

Petitioner may wish to consider filing an Express Abandonment in Application Nos. 10/705,678 and 10/792,671.

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: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64
Privacy Act Statement

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

RUTAN & TUCKER
P.O. BOX 1950
COSTA MESA, CA 92628-1950

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NOV 2 9 2002

OFFICE OF PETITIONS

In re Application of
David Tye
Application No. 10/046,066
Filed: January 15, 2002
Attorney Docket No. 021878.0002US1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 20, 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 11, 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 12, 2002.

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

Telephone inquiries concerning this decision should be directed to 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

cc: RUTAN & TUCKER
611 ANTON BLVD.
SUITE 1400
COSTA MESA, CA 92626

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ROBERT D. FISH
RUTAN & TUCKER
611 ANTON BLVD 14TH FLOOR
COSTA MESA, CA 92626-1931

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MAR 14 2006

OFFICE OF PETITIONS

In re Application of	:	
David Tye	:	
Application No. 10/046,066	:	ON PETITION
Filed: January 15, 2002	:	
Attorney Docket No. 021878.0002US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 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 27, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 28, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of January 27, 2005 is accepted as having been unintentionally delay.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3652.

Wan Laymon
Wan Laymon
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

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APR 1 4 2003

OFFICE OF PETITIONS

Ms. Susan M. Warren
10809 W Snoqualmie Valley Rd NE
Carnation, WA 98014-9402

In re Application of
Francisco M. Galanes; Hsiao-Wuen Hon; James D. Jacoby; Renaud J. Lecoueche; Stephen F. Potter; and Susan M. Warren
Application No. 10/046,131
Filed: October 21, 2001
For: WEB SERVER CONTROLS FOR WEB ENABLED RECOGNITION AND/OR AUDIBLE PROMPTING

Dear Ms. Warren:

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: Steven M. Koehler
Westman, Champlin & Kelly, P.A.
900 Second Avenue South
Suite 1600
Minneapolis, MN 55402-3319

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Steven M. Koehler
Westman, Champlin & Kelly, P. A.
900 Second Avenue South
Suite 1600
Minneapolis, MN 55402-3319

COPY MAILED

APR 1 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Francisco M. Galanes, et al.	:	
Application No. 10/046,131	:	ON PETITION
Filed: October 21, 2001	:	
Attorney Docket No. M61.12-0393	:	

This is in response to the petition under 37 CFR 1.47(a), filed October 22, 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 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 for further processing.

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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Sep-05

Paper No. 10

GARY W. LAMPKINS
1501 ARAGONA BLVD.
FORT WASHINGTON MD 20744

COPY MAILED

SEP 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Gary W. Lampkins	:	DECISION ON PETITION
Application No. 10/046,164	:	
Filed: 16 January, 2002	:	
For: STAY TIE II	:	

This is a decision on the petition filed on 24 August, 2005, which is treated as a petition under 37 CFR 1.137(b)[1] to revive the above-identified application.

The petition is **DISMISSED**.

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

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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)).

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

This application became abandoned on 16 October, 2003, for failure to file a proper reply to the Notice of Non-Compliant Amendment (37 CFR 1.121), mailed on 15 August, 2003, which set a one (1) month shortened period for reply. On 15 September, 2003, petitioner filed an amendment. However, the examiner determined by letter mailed on 8 October, 2003, that the amendment was not compliant with 37 CFR 1.121(c), and stated that the time for reply continued to run from the Notice mailed on 15 August, 2003. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 16 April, 2004.

The petition lacks the required reply. In this regard, the examiner has determined that the amendment filed with the present petition on 24 August, 2005 does not comply with the Notice of Non-Compliant amendment mailed on 8 October, 2003. Specifically, applicant is required to have a status identifier with each claim. Only canceled claims can be written in a group, such as Claims 1-3 (canceled). Other claims, such as new claims, require the status identifier to be located in the first line of the claim after the claim number. It is also unclear whether claims 1-2 are canceled or amended as it appears to be both in the submission. Further, not only is the amendment non-compliant, it also continues to be non-responsive as applicant has failed to discuss how each of the new claims read over the prior art applied as required by 37 CFR 1.111. Applicant has also failed to correct all the problems point out in the Notice of Non-Compliance, including those noted above.

An amendment in compliance with 37 CFR 1.121, as stated in the Notice mailed on 15 August, 2003, is required with any renewed petition.

Additionally, the petition lacks 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. In this regard, it is suggested that petitioner utilize the attached form when filing a renewed petition.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

ATTCH: 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
DIW Dec-05

Paper No. 13

GARY W. LAMPKINS
1501 ARAGONA BLVD.
FORT WASHINGTON MD 20744

COPY MAILED

DEC 07 2005

OFFICE OF PETITIONS

In re Application of :
Gary W. Lampkins : DECISION ON PETITION
Application No. 10/046,164 :
Filed: 16 January, 2002 :
For: STAY TIE II :

This is a decision on the renewed petition filed on 17 October, 2005, under 37 CFR 1.137(b).[1]

The petition is again **DISMISSED**.

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

This application became abandoned on 16 October, 2003, for failure to file a proper reply to the Notice of Non-Compliant

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

Amendment (37 CFR 1.121), mailed on 15 August, 2003, which set a one (1) month shortened period for reply. On 15 September, 2003, petitioner filed an amendment. However, the examiner determined by letter mailed on 8 October, 2003, that the amendment was not compliant with 37 CFR 1.121(c), and stated that the time for reply continued to run from the Notice mailed on 15 August, 2003. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 16 April, 2004. The petition filed on 24 August, 2005, was dismissed on 29 September, 2005.

The petition lacks the required reply. In this regard, the examiner has determined that the reply filed with the present renewed petition does not comply with the Notice of Non-Compliant amendment mailed on 10 April, 2003. A copy of the Advisory Action Before the Filing of An Appeal Brief is enclosed for petitioner's reference in preparing a proper reply.

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

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

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

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

ATTCH: Advisory Action Before the Filing of An Appeal Brief

UNITED STATES 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

Paper No. 16

COPY MAILED

MAR 06 2006

OFFICE OF PETITIONS

GARY W. LAMPKINS
1501 ARAGONA BLVD.
FORT WASHINGTON MD 20744

In re Application of :
Gary W. Lampkins : DECISION ON PETITION
Application No. 10/046,164 :
Filed: 16 January, 2002 :
For: STAY TIE II :

This is a decision on the twice renewed petition filed on 9 February, 2006, under 37 CFR 1.137(b).[1]

The petition is again **DISMISSED**.

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

This application became abandoned on 16 October, 2003, for failure to file a proper reply to the Notice of Non-Compliant Amendment (37 CFR 1.121), mailed on 15 August, 2003, which set a

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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 petiton 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)).

one (1) month shortened period for reply. On 15 September, 2003, petitioner filed an amendment. However, the examiner determined by letter mailed on 8 October, 2003, that the amendment was not compliant with 37 CFR 1.121(c), and stated that the time for reply continued to run from the Notice mailed on 15 August, 2003. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 16 April, 2004. The petition filed on 24 August, 2005, was dismissed on 29 September, 2005. The renewed petition filed on 17 October, 2005, was dismissed on 7 December, 2005.

The petition still lacks the required reply. In this regard, the examiner has determined that the reply filed with the present renewed petition does not comply with the Notice of Non-Compliant amendment mailed on 10 April, 2003. A copy of the Advisory Action Before the Filing of An Appeal Brief is enclosed for petitioner's reference in preparing a proper reply.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

ATTCH: Advisory Action Before the Filing of An Appeal Brief

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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DIW Jun-06

Paper No. 20

GARY W. LAMPKINS
1501 ARAGONA BLVD.
FORT WASHINGTON MD 20744

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OFFICE OF PETITIONS

In re Application of	:	
Gary W. Lampkins	:	DECISION ON PETITION
Application No. 10/046,164	:	
Filed: 16 January, 2002	:	
For: STAY TIE II	:	

This is a decision on the thrice renewed petition filed on 5 May, 2006, under 37 CFR 1.137(b).[1]

The petition is again **DISMISSED**.

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

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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 befiled to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). Agrantable 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)).

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

This application became abandoned on 16 October, 2003, for failure to file a proper reply to the Notice of Non-Compliant Amendment (37 CFR 1.121), mailed on 15 August, 2003, which set a one (1) month shortened period for reply. On 15 September, 2003, petitioner filed an amendment. However, the examiner determined by letter mailed on 8 October, 2003, that the amendment was not compliant with 37 CFR 1.121(c), and stated that the time for reply continued to run from the Notice mailed on 15 August, 2003. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 16 April, 2004. The petition filed on 24 August, 2005, was dismissed on 29 September, 2005. The renewed petition filed on 17 October, 2005, was dismissed on 7 December, 2005. The renewed petition filed on 7 February, 2006, was dismissed on 6 March, 2006.

The petition still lacks the required reply. In this regard, the examiner has determined that the reply filed with the present renewed petition does not comply with the Notice of Non-Compliant amendment mailed on 10 April, 2003. A copy of the Examiner's report is enclosed with this decision.

Petitioner should note that submission of any renewed petition without the required reply (*i.e.*, an amendment in compliance with Notice mailed 15 August, 2003) will be construed as intentional delay.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

ATTCH: Examiner's notes

UNITED STATES 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 Feb-07

Paper No. 22

GARY W. LAMPKINS
1501 ARAGONA BLVD.
FORT WASHINGTON MD 20744

COPY MAILED

FEB 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Gary W. Lampkins	:	DECISION ON PETITION
Application No. 10/046,164	:	
Filed: 16 January, 2002	:	
For: STAY TIE II	:	

This is a decision on the renewed petition filed on 28 August, 2006, under 37 CFR 1.137(b).[1]

The petition is **GRANTED**.

This application became abandoned on 16 October, 2003, for failure to file a proper reply to the Notice of Non-Compliant Amendment (37 CFR 1.121), mailed on 15 August, 2003, which set a one (1) month shortened period for reply. On 15 September, 2003,

---

[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 forthin 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

petitioner filed an amendment. However, the examiner determined by letter mailed on 8 October, 2003, that the amendment was not compliant with 37 CFR 1.121(c), and stated that the time for reply continued to run from the Notice mailed on 15 August, 2003. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 16 April, 2004. The petition filed on 24 August, 2005, was dismissed on 29 September, 2005. The renewed petition filed on 17 October, 2005, was dismissed on 7 December, 2005. The renewed petition filed on 7 February, 2006, was dismissed on 6 March, 2006. The renewed petition is filed on 5 May, 2006, was dismissed on 28 June, 2006.

Receipt of the amendment filed with the present petition is acknowledged.

In this regard it is noted that the revival of the application should not be construed as meaning that this amendment has been determined to be in compliance with 37 CFR 1.121. The examiner will determine, in due course, whether the amendment is a proper amendment within the meaning of 37 CFR 1.121.

The application is being forwarded to Technology Center Art Unit 3728 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
www.uspto.gov

WENDEROTH, LIND & PONACK LLP
2033 K STREET NW
SUITE 800
WASHINGTON, DC 2006-1021

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APR 11 2007

OFFICE OF PETITIONS

In re Application of	:
Satoshi Inami et al	:
Application No. 10/046,172	: DECISION GRANTING PETITION
Filed: January 16, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2002-0022A	:

This is a decision on the petition, filed April 10, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 19, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2164 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Apr10\046172.wpd

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

HOWREY SIMON ARNOLD & WHITE LLP
BOX 34
1299 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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JUL 17 2002

OFFICE OF PETITIONS

In re Application of Kukula et al. Application No. 10/046,220 Filed: January 16, 2002 Attorney Docket No. 06816.0036.NPUS.01	DECISION GRANTING PETITION

This is a decision on the petition filed May 23, 2002, requesting that Figure 5E described in the specification be accorded a filing date of January 16, 2002, as part of the original disclosure.

On January 16, 2002, applicants filed the above-identified application. On February 28, 2002, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of January 16, 2002, and requiring applicants to submit an executed oath or declaration and a $130.00 surcharge for its late filing. Additionally, the Notice advised applicants that Figure 5E described in the specification appeared to have been omitted.

In response, May 23, 2002, applicants filed the present petition, the petition fee, and one (1) sheet of drawings consisting of Figure 5E. The petition was accompanied by a copy of applicants' postcard receipt acknowledging receipt of "50 sheets of drawings (Figures 1-3, 4A-4K, 5A-5E, 6A-6J, 7A-7B, 8A-8O, 9, 10, 11, and 12)" on January 16, 2002. Applicants requested that the application, including Figure 5E, be accorded a filing date of January 16, 2002, and the petition fee be refunded.

Upon review of the record, Figure 5E, deposited on January 16, 2002, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on January 16, 2002, included Figure 5E, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figure 5E, was complete on filing and entitled to a filing date of January 16, 2002.

Accordingly, the petition is granted.

The Notice's requirement for the omitted item was sent in error and is hereby vacated. Accordingly, the petition fee is unnecessary and will be credited to Deposit Account No. 08-3038.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 16, 2002, using Figures 1-3, 4A-4K, 5A-5D, 6A-6J, 7A-7B, 8A-8O, 9, 10, 11, and 12 submitted on January 16, 2002, and Figure 5E submitted on May 23, 2002. Additionally, the Office records should indicate that 50 sheets of drawings were present on filing.

Any inquiries related to this decision should be directed to Petitions Attorney Christina Tartera Donnell at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Beverly M. Flanagan

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

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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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OFFICE OF PETITIONS

KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

In re Patent No. 6,987,958	:	
Issue Date: January 17, 2006	:	
Application No. 10/046,243	:	ON PETITION
Filed: January 16, 2002	:	
Attorney Docket No. 12177/13802	:	

This is a decision on the paper filed June 26, 2006, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is Dismissed.

Petitioner seeks to have a Certificate of Correction issued in the name of **CINGULAR WIRLESS II, INC.** 37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of the assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but *prior to issuance of a patent*. PTO assignment records disclose that this patent issued in the name of **CINGULAR WIRELESS II, INC.** As such, issuance of a Certificate of Correction would not be proper at this time. *However, a Certificate of Correction would be proper in the assignee's name as recorded on April 22, 2005, Reel/Frame No. 017555/0711*, as **CINGULAR WIRELESS II, INC.**

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1]See Official Gazette of June 22, 2004

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

MAY 12 2004

In re Application of	:	
Choi, Chul-Hwan et al	:	NOTICE OF WITHDRAWAL
Serial No. 10/046282	:	FROM ISSUE
Filed: January 16, 2002	:	UNDER 37 CFR 1.313
For: RESIDUAL GAS REMOVING DEVICE	:	
AND METHOD THEREOF	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313. (b).

The above-identified application is hereby withdrawn from issue to permit reopening. An office action from the examiner will follow in due course.

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

Telephone inquiries should be directed to Blaine Copenheaver at (571) 272-1156.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

VOLENTINE FRANCOS, P.L.L.C.
Suite 150
12200 Sunrise Valley Drive
Reston VA 20191

CC: Allowed Files

OIPE JC95
MAY 28 2002
PATENT & TRADEMARK OFFICE

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MP/$

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/046,323	01/14/2002	Martin A. Cotton	

CONFIRMATION NO. 2812

FORMALITIES LETTER

OC000000007455126

Kevin L. Pontius
Roberts Abokhair & Mardula, LLC
Suite 1000
11800 Sunrise Valley Drive
Reston, VA 20191-5302

Date Mailed: 02/11/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

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

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 130.**

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

CK. Chomkeo Chantrachuck
Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

05/31/2002 HMARZI1 00000005 10046323
01 FC:105 130.00 OP

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MAY 2 8 2002
PATENT & TRADEMARK OFFICE

Express Mail Label No.: EL 884787921 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Martin A. COTTON

Serial No.: 10/046,323 Group Art Unit: 2841

Filed: Jan. 14, 2002 Examiner:

For: EMBEDDED WAVEGUIDE AND EMBEDDED ELCTROMAGNETIC SHIELDING

Commissioner for Patents
Box Missing Parts
Washington, D.C. 20231

Dear Sir:

Enclosed please find the following:

1. Copy of Notice to File Missing Parts of Application;
2. Declaration and power of attorney;
3. Petition for Extension of Time under 37 C.F.R. '1.136(a);
4. One check in the amount of $530.00 to cover the fee for missing parts and the fee for extension of time for two months.

The Commissioner is hereby authorized to charge any fee deficiency, or credit any overpayment, to Deposit Account No. 18-1579. The Commissioner is also authorized to charge Deposit Account No. 18-1579 for any future fees connected in any way to this application. Two copies of this letter are enclosed.

Respectfully submitted,

Kevin L. Pontius
Registration No. 37,512
Roberts Abokhair & Mardula, LLC
11800 Sunrise Valley Drive, Suite 1000
Reston, VA 20191-5302
(703) 391-2900

May 28, 2002

Atty. Docket No.: 2654-015

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

62305

DUNLAP, CODDING & ROGERS P.C.
P.O. Box 16370
Oklahoma City, OK 73113

JUL 0 8 2005

In re Application of:
Martin Cotton
Serial No.: 10/046,323
Filed: January 14, 2002
Attorney Docket No.: **2654-015 (8245.035)**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed on October 29, 2003 to withdraw the holding of abandonment of the above identified application under 37 C.F.R. § 1.181.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a response to the Office action mailed on March 17, 2003. A Notice of Abandonment was mailed on October 8, 2003.

Petitioner asserts that on September 17, 2003, a response including an amendment, a three-month extension of time, and the required fee was filed. To support this assertion, petitioner has submitted a copy of the response and a copy of a return postcard receipt, which acknowledges receipt in the PTO of the amendment, petition for extension of time, and fee transmittal on September 17, 2003.

M.P.E.P. § 503 states, "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely received in the PTO. Furthermore, a review of the application file reveals that the original response is now of record.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status and is being forwarded to the examiner of record for consideration of the response and prompt appropriate action.

Inquiries regarding this decision should be directed to Clayton E. LaBalle, Special Program Examiner, at (571) 272-1594.

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

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Paper No. 7

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

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JUL 1 1 2003

OFFICE OF PETITIONS

In re Application of
Michael S. Foster and Michael A. Dorsett
Application No. 10/046,333
Filed: October 26, 2001
Attorney Docket No. 030048026US
Title: METHOD AND SYSTEM FOR DOMAIN 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 application1.

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[2];
(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

1 A supplement to this petition was received on July 8, 2003.
2 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.

Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

On 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 2100 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
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Paper No. 10

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

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JUL 0 7 2003

OFFICE OF PETITIONS

In re Application of	:
Michael S. Foster et al	:
Application No. 10/046,334	: DECISION GRANTING PETITION
Filed: October 26, 2001	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 030048033US	:

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 2664 for examination in due course.

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 Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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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 1 7 2002

OFFICE OF PETITIONS

In re Application of :
Foster et al. :
Application No. 10/046,334 :
Filed: October 26, 2001 :
Attorney Docket No. 030048033US :

DECISION GRANTING PETITION

This is a decision on the petition filed May 9, 2002, to establish that pages 2, 4, 6, 7, 10, 12, 13, 15, 18, and 20 were part of the originally filed application.

On October 26, 2001, the application was filed.

On March 1, 2002, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of October 26, 2001, and advising applicants that pages 2, 4, 6, 7, 10, 12, 13, 15, 18, and 20 of the specification appeared to have been omitted.

In response, the present petition was filed alleging that the missing pages were deposited on October 26, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Spec., Claims, Abstract (29 pages)" on October 26, 2001.[1] Petitioner has also submitted a copy of the missing documentation.

Upon review of the record, the missing pages, deposited on October 26, 2001, have not been located. However, the evidence is convincing that the application papers deposited on October 26, 2001, included the missing pages, and that the pages were subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of pages 2, 4, 6, 7, 10, 12, 13, 15, 18, and 20 of the specification 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 1, 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 October 26, 2001, using the application papers filed on October 26, 2001, and the copy of pages 2, 4, 6, 7, 10, 12, 13, 15, 18, and 20 of the specification filed on May 9, 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
Washington, D.C. 20231
www.uspto.gov

Paper No. 5

Ross Patent Law Office
P.O. Box 2138
Del Mar, CA 92014

COPY MAILED

SEP 3 0 2002

OFFICE OF PETITIONS

In re Application of :
Johnson, et al. :
Application No. 10/046,348 : DECISION ON PETITION
Filed: October 25, 2001 :
Title: WIRELESS COMMUNICATION :
NETWORK WITH TRACKING DISH ANTENNA :

This is a decision on the "Petition under 37 CFR 1.53(e)" filed June 26, 2002, to accord the above-identified application a filing date of October 25, 2001, with Fig. 7B as a part of the original application disclosure.

Application papers in the above-identified application were filed on October 25, 2001. However, on April 22, 2002, the Initial Patent Examination Division mailed applicants a "Notice to File Missing Parts of Nonprovisional Application." Applicants were notified that the application papers had been accorded a filing date; however, Figures 7B described in the specification appeared to have been omitted.

In response, applicants timely filed the instant petition. Applicants contend that Figure 7B was sent with the original filing. In support thereof, applicants submit *inter alia* a copy of the fifteen sheets of drawings as applicant maintains they were filed on October 25, 2001; and a copy of their return postcard from the USPTO. The postcard receipt, itemizes "Drawings: 15 Sheets" among the enclosures, bears a USPTO date-stamp of October 25, 2001 with application No. assignment of 10/046,348, and lacks any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. Applicant has shown that the application as filed on October 25, 2001, included fifteen (15) sheets of drawings. A review of the papers in the application presently accorded a filing date of October 25, 2001 reveals that fourteen (14) sheets of drawings are present. The drawings in the file with the missing Fig. 7B resubmitted on petition constitute the fifteen (15) sheets of drawings noted on the postcard, and thus, entitled to a filing date of October 25, 2001.

In view thereof, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 20-0678, as authorized.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of October 25, 2001, using the application papers received in the Office and presently accorded that date; and the drawing sheet containing Figure 7B resubmitted on petition filed June 26, 2002;
- for indication in Office records that fifteen (15) sheets of drawings were present on filing; and
- to await the additional required responses to the Notice to File Missing Parts, an executed declaration and late surcharge.

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

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DIW Dec-06

BROUSE MCDOWELL LPA
388 SOUTH MAIN STREET
SUITE 500
AKRON OH 44311

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DEC 0 6 2006
OFFICE OF PETITIONS

In re Application of	:	
Eavenson et al.	:	DECISION ON PETITION TO
Application No. 10/046,379	:	WITHDRAW HOLDING OF
Filed: 01/10/2002	:	ABANDONMENT
Atty. Docket No. 0512.0048	:	

This is a decision on the petition, filed on 11 August, 2004, to withdraw the holding of abandonment in the above-identified application.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on 29 July, 2004, stating that the application was abandoned for failure to timely file a reply to the non-final Office action mailed on 26 January, 2004.

Petitioners assert that a timely reply to the non-final Office action was filed on 5 April, 2004. In support, petitioners have provided a copy of a date-stamped postcard, showing receipt of an amendment in the above-identified application, stamped with an Office-date of 5 April, 2004.

A review of the record reveals that the amendment was timely filed on 5 April, 2004.

As such, there is no abandonment in fact. The Office regrets the error.

The holding of abandonment is withdrawn. The Notice of Abandonment is vacated.

Receipt of the revocation and power of attorney filed on 5 April, 2004, is acknowledged. It is noted that the revocation and new power of attorney did not specify that the correspondence address

should be changed. As such, a copy of this decision is being forwarded to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. Petitioners should file a change of correspondence address if the correspondence address is to be updated.

The application is referred to Technology Center Art Unit 3752 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Notice Regarding Change of Power of Attorney
Change of Correspondence Address Form

Cc: WEGMAN, HESSLER & VANDERBURG
6055 ROCKSIDE WOODS BOULEVARD
SUITE 200
CLEVELAND OH 44131

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/046,379	01/10/2002	Jimmy N. Eavenson SR.	0512.0048

CONFIRMATION NO. 1646

OC000000021482616

26781
BROUSE MCDOWELL LPA
388 SOUTH MAIN STREET
SUITE 500
AKRON, OH 44311

Date Mailed: 12/05/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/05/2004.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

D Wood

DOUGLAS I WOOD
OP (571) 272-3231

NEW ATTORNEY/AGENT COPY

PTO/SB/122 (01-06)
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CHANGE OF CORRESPONDENCE ADDRESS
Application

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

Application Number	
Filing Date	
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	

Please change the Correspondence Address for the above-identified patent application to:

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OR

☐ Firm or Individual Name

Address

City	State	Zip

Country

Telephone	Email

This form cannot be used to change the data associated with a Customer Number. To change the data associated with an existing Customer Number use "Request for Customer Number Data Change" (PTO/SB/124).

I am the:

☐ Applicant/Inventor

☐ Assignee of record of the entire interest.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

☐ Attorney or agent of record. Registration Number _____.

☐ Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(a)(1). Registration Number_____.

Signature

Typed or Printed Name

Date	Telephone

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____forms are submitted.

This collection of information is required by 37 CFR 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Privacy Act Statement

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

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

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

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Paper No. 6

SHEARMAN & STERLING
INTELLECTUAL PROPERTY DOCKETING
599 LEXINGTON AVENUE
NEW YORK NY 10022

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JUL 05 2002

OFFICE OF PETITIONS

In re Application of
Andrus, et al.
Application No. 10/046,418
Filed: October 29, 2001
Attorney Docket No. 31888/5US
For: DEBT FINANCING FOR COMPANIES

DECISION GRANTING
PETITION

This is a decision on the petition entitled, "PETITION UNDER 37 CFR 1.181 TO ACCEPT MISSING DRAWING PREVIOUSLY FILED WITH ORIGINAL APPLICATION," filed March 29, 2002 (certificate of mailing date March 21, 2002), requesting, in effect, partial withdrawal of the Notice to File Corrected Application Papers (Notice) insofar as the Notice stated that Figure 4 appeared to have been omitted. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on October 29, 2001. On March 11, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that drawing figure 4 described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request the October 29, 2001 filing date on the basis that the allegedly omitted drawing figure was received in the Patent and Trademark Office (PTO) on October 29, 2001. In support, the petition is accompanied by a copy of applicants' Express Mail label with a date-in of October 29, 2001 and a copy of applicants' postcard receipt showing an Office of Initial Patent Examination date stamp citing October 29, 2001 as the date of receipt.

Petitioners are advised that the provisions of 37 CFR 1.10(e) cannot be utilized to prove the contents of a mailing. MPEP 513 states, "Where there is a dispute as to the contents of correspondence submitted to the Office,...an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what document(s)... were filed in the Office with such correspondence. Rather, where the records of the Office (e.g. the file of the application) contain any document(s)... corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g., a postcard receipt under MPEP 503 containing specific itemization of the document(s)... purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s).. that is not among the official records of the Office."

Fortunately, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing October 29, 2001 as the date of receipt. The postcard lists, *inter alia*, that the filing included 6 sheets of drawings. A review of the file indicates that only 4 sheets are present. Sheets corresponding to drawing figures 2 and 4 appear to be missing. The Notice mailed March 11, 2002 should have listed figure 2 as missing, in addition to figure 4.

Nevertheless, the return postcard constitutes *prima facie* evidence that 6 sheets of drawing figures, including drawing figures 2 and 4, were filed on October 23, 2001. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioners' authorization, the $130.00 petition fee will be credited to deposit account no. 50-0324.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **October 29, 2001**, using the 6 sheets of substitute drawings, including Figures 2 and 4, submitted on May 6, 2002. Office records will be corrected to show that 6 sheets of drawings were present on filing.

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

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

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Richard Voellmy
Dept. of Biochem. & Mol. Biol.
University of Miami School of Medicine
1011 N.W. 15th St.
Miami FL 33136

COPY MAILED
MAY 26 2006
OFFICE OF PETITIONS

In re Application of :
Voellmy : DECISION ON PETITION
Application No. 10/046,420 :
Filed: October 26, 2001 :
For: MOLECULAR REGULATORY :
CIRCUITS TO ACHIEVE SUSTAINED :
ACTIVATION OF GENES OF INTEREST :
BY A SINGLE STRESS :

The above-identified application has been forwarded to the Office of Petitions for consideration of the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed April 11, 2006.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

This application became abandoned December 3, 2005 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed September 2, 2005. The Notice set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed February 10, 2006

Petitioner argues that the Notice was "sent to Miami by mistake." Petitioner further argues that all "earlier Office Actions in this case were mailed correctly to my Swiss address." Petitioner further argues that the Registry of patent attorneys "has been showing correctly my Swiss address since 2004."

In the absence of any irregularity in the mailing of the Notice, there is a strong presumption that the Notice was properly mailed to practitioner at the address of record. Office records indicate the Notice was properly mailed to the correspondence address of record at the time of mailing. Accordingly, there was no irregularity in mailing the Notice on the part of the United States

Patent and Trademark Office. Moreover, a review of the application file does not indicate that a change of correspondence address was submitted prior to the mailing of the Notice.

Moreover, petitioner is advised that 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), petitioner is required to establish that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (See, MPEP 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. See, MPEP 711.03(c).

As to petitioner's argument that previous correspondence directed to this application were mailed to a "Swiss" address, petitioner is advised that all correspondence mailed in this case has been mailed to the correspondence address designated in the declaration submitted upon filing which is in fact the address indicated on the first page of the instant decision.

As to petitioner's argument that the patent registry bears petitioner's "Swiss" address, petitioner is reminded that the obligation of a registered attorney or agent to notify the Attorney's Roster by letter of any change of his or her address for entry on the register is separate from the obligation to file a notice of change of address filed in individual applications. See MPEP 402.

ALTERNATE VENUE

Petitioner is strongly urged to consider filing a petition stating that the delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

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

the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

By facsimile: (571) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

There is no indication that a change of correspondence address has been submitted in this application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosures: USPTO Privacy Statement
PTO/SB 122
PTO/SB/64

CC: RICHARD VOELLMY
AVENUE DES CERISIERS 39B
CH-1009 PULLY
SWITZERLAND

Privacy Act Statement

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

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

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

PTO/SB/122 (01-06)
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CHANGE OF CORRESPONDENCE ADDRESS
Application

Address to:
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Alexandria, VA 22313-1450

Application Number	
Filing Date	
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	

Please change the Correspondence Address for the above-identified patent application to:

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Address

City	State	Zip

Country

Telephone	Email

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I am the:

☐ Applicant/Inventor

☐ Assignee of record of the entire interest.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

☐ Attorney or agent of record. Registration Number _____.

☐ Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(a)(1). Registration Number_____.

Signature

Typed or Printed Name

Date	Telephone

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____forms are submitted.

This collection of information is required by 37 CFR 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

PTO/SB/64 (10-05)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

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

2. Reply and/or fee

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

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

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

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

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

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

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

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

WARNING:

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

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

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

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

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

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JUL 0 6 2006
OFFICE OF PETITIONS

RICHARD VOELLMY
AVENUE DES CERISIERS 39B
PULLY 1009 CH SWITZERLAND

In re Application of :
Voellmy : DECISION ON PETITION
Application No. 10/046,420 :
Filed: October 26, 2001 :
For: MOLECULAR REGULATORY :
CIRCUITS TO ACHIEVE SUSTAINED :
ACTIVATION OF GENES OF INTEREST :
BY A SINGLE STRESS :

The decision is in response to the petition renewed under 37 CFR 1.137(b) filed June 11, 2006.

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

This application became abandoned December 3, 2005 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed September 2, 2005. The Notice set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed February 10, 2006. A petition under 37 CFR 1.181 was filed April 11, 2006 and dismissed May 26, 2006.

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

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

J. Mike Amerson
Williams, Morgan & Amerson, P.C.
Suite 250
7676 Hillmont
Houston, TX 77040

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JUL 1 7 2002

OFFICE OF PETITIONS

In re Application of	:	
Purdy et al.	:	
Application No. 10/046,422	:	DECISION GRANTING
Filed: November 7, 2001	:	PETITION
Attorney Docket No. 2000.082700	:	

This is a decision on the petition filed April 18, 2002, to establish that pages 2, 8, and 19 were part of the originally filed application.

On November 7, 2001, the application was filed.

On February 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 November 7, 2001, and advising applicants that pages 2, 8, and 19 of the specification appeared to have been omitted.

In response, the present petition was filed alleging that pages 2, 8, and 19 were deposited on November 7, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Specification: 29 Pages" on November 7, 2001.[1] Petitioner has also submitted a copy of the missing documentation- pages 2, 8, and 19.

Upon review of the record, pages 2, 8 and 19, deposited on November 7, 2001, have not been located. However, the evidence is convincing that the application papers deposited on November 7, 2001 included the pages, and that the pages were subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of pages 2, 8, and 19 submitted with the petition will be used for examination purposes.

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

The Notice mailed February 1, 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 November 7, 2001, using the application papers filed on November 7, 2001, and the copy of pages 2, 8, and 19 filed on April 18, 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

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Paper No. 5

Micheal D. Lake
Wallenstein & Wagner, Ltd.
311 South Wacker Drive, 53rd Floor
Chicago IL 60606-6630

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JUL 3 1 2002

OFFICE OF PETITIONS

In re Application of :
Leonard et al. :
Application No. 10/046,451 : DECISION DISMISSING PETITION
Filed: January 14, 2002 :
Attorney Docket No. 1867 P 025 :

This is a decision on the petition filed April 15, 2002, requesting that the "Notice of Omitted Item(s)" mailed on February 5, 2002, be withdrawn.

On January 14, 2002, applicants filed the above-identified application. On February 5, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" (Notice), stating that the application had been accorded a filing date of January 14, 2002, and advising applicants that page 23 of the specification appeared to have been omitted.

In response, on April 15, 2002, applicants filed the present petition, a copy of page 23 of the specification, and the $130.00 petition fee. The petition was accompanied by a postcard receipt.

Upon review of the record, 22 pages of specification (pages 1-22), including claims and the abstract are located among the application papers. However, page 23 of the specification has not been located in the official file.

Initially, the Office notes that the postcard receipt does not contain a date-stamp acknowledging receipt of the application papers in the United State Patent and Trademark (USPTO). Moreover, the postcard receipt does not itemize with particularity the total number of pages of specification, including claims and the abstract. Rather, applicants' postcard receipt lists the papers being filed on January 14, 2002, as follows: 1. Check No. 10917 in the sum of $824 as filing fee for 17 claims/4 indep., 2. Continuation Patent Application Transmittal under 37 CFR 1.53(b), in duplicate, 3. Copies of Response to July 12, 2001 Office Action as filed Dec. 12, 2001 in parent application, 4. Copy of the specification, claims and abstract as filed in parent application, and 5. Copies of five Declarations/Powers of Attorney as filed in parent application.

As set forth in Section 503 of the Manual of Patent Examining Procedure, in pertinent part:

> A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie

> evidence of receipt in the PTO of all the items listed thereon on the **date stamped thereon by the PTO. The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested.** For example, the postcard should identify the applicant's name, applicant identifier, application number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application), etc.
>
> The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings, etc.) of an application if one of the components or portion of a component is found to be missing by the PTO. Each separate component should be specifically and properly itemized on the postcard. (Emphasis added).

Because the postcard receipt does not contain a date-stamp by the USPTO and does not properly identify and itemize the papers, it does not serve as prima facie evidence that page 23 of specification was filed on January 14, 2002.

Accordingly, the petition is <u>dismissed</u>.

It is noted that the application transmittal letter identified this application as a continuation application of prior application No. 09/603,560, filed June 23, 2000, and specifically incorporated by reference the disclosure of the prior application.

Section 201.06(c) of the Manual of Patent Examining Procedure states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior 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, page 23 of the specification is not new matter if it was a part of the disclosure of the prior application. Applicants may file an amendment to include page 23 of the specification without a petition.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 14, 2002, with the application papers filed on that date.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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SEP 16 2005

OFFICE OF PETITIONS

In re Patent No. 6,767,352 :
Issue Date: July 27, 2004 :
Application No. 10/046,453 : LETTER
Filed: October 19, 2001 :
Attorney Docket No. ONUX-16

This is in response to the paper filed February 17, 2005 which is being treated as a petition under 37 CFR 1.28(b) requesting that status as a Small Entity be removed.

In accordance with the February 17, 2005 request, status as a Small Entity has been removed.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Paper No. 13

JOSEPH A. MAHONEY
MAYER, BROWN & PLATT
P.O. BOX 2828
CHICAGO IL 60690-2828

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JUN 1 8 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Robert E. Dudley et al
Application No. 10/046,454
Filed: October 10, 2001
Attorney Docket No. 01917581

This is a decision on the petition, filed June 13, 2003, and supplemented by facsimile transmission on June 17, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 25, 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 1617 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.

FITZPATRICK CELLA
HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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MAR 3 1 2008

OFFICE OF PETITIONS

Patent No. 7,218,422	:	LETTER REGARDING
Issue Date: May 15, 2007	:	PATENT TERM ADJUSTMENT
Application No. 10/046,480	:	AND
Filed: January 16, 2002	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 03560.002135.1	:	CERTIFICATE OF CORRECTION

This is in response to the "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT" filed November 15, 2007. Pursuant to patentees' duty of good faith and candor to the Office, patentees request review of the patent term adjustment on the basis that the PAIR system appears to indicate an incorrect number of days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of four hundred thirty-five (435) days.

On February 20, 2007, this application matured into U.S. Patent No. 7,218,422, with a revised patent term adjustment of 435 days. Patentees attribute any error to the failure of the Office to consider the filing of papers in their correct chronological order, and/or the failure of the PTO to consider the actual dates on which the PTO took action in response to the filing of papers.

A review of the application history confirms that the revised patent term adjustment of 525 days was incorrect. Rather than a period of reduction of 90 days for the filing of an IDS on

February 15, 2007, the Office should have entered periods of reduction of 25, 122 and 33 days respectively for Information Disclosure Statements (IDS) filed on November 25, 2002, November 8, 2004 and February 15, 2007. None of the IDSs included a § 1.704(d) statement.

The IDSs filed November 25, 2002 and November 8, 2004 were filed after initial responses were filed on October 31, 2002 and July 9, 2004 respectively. Moreover, these IDS were not expressly requested by the examiner. Accordingly, reductions of 25 and 122 days respectively were warranted pursuant to 37 CFR 1.704(c)(8).

The IDS filed February 15, 2007 was filed after the mailing of the notice of allowance. A response to this IDS was mailed on March 19, 2007. Accordingly, a reduction of 33 days was warranted pursuant to 37 CFR 1.704(C)(10).

In view thereof, the patent should have issued with a revised patent term adjustment of four hundred thirty-five (435) days.

As this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **FOUR HUNDRED THIRTY-FIVE (435)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,218,422 B2

DATED : **May 15, 2007**

INVENTOR(S) : Shiraiwa

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 525 days

Delete the phrase "by 525 days" and insert – by 435 days--

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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#8

EITAN, PEARL, LATZER & COHEN
ZEDEK, LLP.
10 ROCKEFELLER PLAZA, SUITE 1001
NEW YORK, NY 10020

In re Application of Gavrie J. Iddan Serial No.: 10/046,540 Filed: January 16, 2002 For: A System and Method for Deter- Mining In Vivo Body Lumen Conditions	:	**PETITION DECISION**

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

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

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

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

John E. Kittle
Director
Technology Center 3700/2900

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Alexandria, VA 22313-1450
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RISSMAN JOBSE HENDRICKS & OLIVERIO, LLP
100 CAMBRIDGE STREET
SUITE 2101
BOSTON MA 02114

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OFFICE OF PETITIONS

In re Application of	:	
Wilfred Arthur Jefferies et al	:	
Application No. 10/046,542	:	DECISION ON PETITION
Filed: January 16, 2002	:	
Attorney Docket No. T005/7001USO	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 11, 2007 and supplemented on October 25, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply to the Final Rejection mailed June 27, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an RCE/Amendment, (2) the petition fee of $750, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1633 for appropriate action by the Examiner in the normal course of business on the reply received October 25, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Paper No. 5

AUG 0 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DRIVE
SUITE 500
SAN DIEGO, CA 92130-2332

In re Application of
Chow, Felix
Application No. 10/046,566
Filed: October 19, 2001

For: BIT SYNCHRONOUS ENGINE AND METHOD

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on July 22, 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: Valley Oak Law
Richard Butler
3641 Pleasant Knoll Drive
San Jose, CA 95148

UNITED STATES PATENT AND TRADEMARK OFFICE

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DANIEL M. DEVOS
BLAKELY, SOKOLOFF, TAYLOR & ZAFFMAN LLP
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025

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MAY 3 1 2006

OFFICE OF PETITIONS

In re Application of
Felix Chow
Application No. 10/046,566
Filed: October 19, 2001
Attorney Docket No.: 4906.P033

ON PETITION

This is a decision on the petition filed April 10, 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 August 10, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned November 11, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

This matter is being referred to Technology Center 2616 for appropriate action on the amendment filed April 10, 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)).

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Paper No. 10

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

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JUL 2 5 2003

OFFICE OF PETITIONS

In re Application of	:
Foster et al.	:
Application No. 10/046,572	: DECISION GRANTING PETITION
Filed: October 26, 2001	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 030048028US	:

This is a decision on the petition under 37 CFR 1.137(b) filed June 11, 2003, and supplemented on July 16, 2003, 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 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 30, 2003 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2665 for examination in due course.

Latrice Bond

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

Marianne C. Morgan for

Frances Hicks
Lead Petitions Examiner

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:071805

DATE : [redacted] June 1, 2004

TO SPE OF : ART UNIT 1744

SUBJECT : Request for Certificate of Correction on Patent No.: 6,742,219

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

☐ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☒ **Denied** State the reasons for denial below.

Comments:

Changes to column 10-13 are pertain to changes in claims. Desired corrections need to refer to changes in claim number and line number.

John Kim

SPE: John Kim **Art Unit** 1744

PTO/SB/44 (04-04)
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

10/046589

PATENT NO. : 6,742,219 B2

DATED : June 1, 2004

INVENTOR(S) : Lenzmeier, Michael H., et al.

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

Column 10,
claim 1, ~~Line 64,~~ line 4, delete "pick-tip" and insert --pick-up--
claim 1, ~~Line 35,~~ line 35, delete "sir" and insert --air--
claim 10, Line 40, delete "from" and insert --front--
Column 11
Line 27, delete "dissected" and insert --directed-- — claim 6, line 2
Line 37, delete "veriable" and insert --variable-- — claim 9, line 2
Line 55, delete "," and insert --;-- — claim 11, line 10
Line 62, insert --,-- between "skirt" and "the" — claim 11, line 16
Column 11 and Column 12
Column 11, Line 66 through Column 12, Line 2, delete "[the side skirt movable between a first position and a second position in response to the movement of the first front skirt"]
Column 13
Line 4, delete "at" and insert --an-- — claim 30, line 2
Line 20, delete "front" and insert --from-- — claim 37, line 4
Column 13
Line 43, insert --and-- between "second" and "third" — claim 37, line 2
Line 55, delete "convoying" and insert --conveying-- — claim 38, line 11
Line 57, delete "front" and insert --from-- — claim 38, line 13
Line 62, delete the "," between "claim" and "38" — claim 40, line 1
Line 65, delete "strew" and insert --stream-- — claim 40, line 4

MAILING ADDRESS OF SENDER:

PATENT NO. 6,742,219 B2

John F. Klos, Esq., Fulbright & Jaworski L.L.P.
80 South Eighth Street, Suite 2100, Minneapolis, MN 55402-2112

No. of additional copies

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.

19 OCT 2004

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:072705

DATE : ~~July 27, 2005~~ June 1, 2004

TO SPE OF : ART UNIT 1744

SUBJECT : Request for Certificate of Correction on Patent No.: 6,742,219

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:

Change to column 11, line 62 should be corrected to column 11, line 61 and change to column 11, line 66 through column 12, line 2 should be corrected to column 11, line 65 through column 12, line 2.

John Kim

SPE: John Kim **Art Unit** 1744

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DIW 08-04

MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE CA 95110

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AUG 3 0 2004
OFFICE OF PETITIONS

In re Application of :
Rassman et al. :
Application No. 10/046,620 : ON PETITION
Filed: 12 January, 2002 :
Attorney Docket No. M-15218-2CUS :

This is a decision on the petition under 37 CFR 1.182, received on 13 July, 2004, which was originally filed on 1 August, 2003, to change the order of the names of the inventors.

The petition is **granted**.

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

1. William Rassman
2. David Ralin
3. Robert A. Lieberman
4. Lothar U. Kempen

A corrected Filing Receipt is enclosed for petitioners' records.

The petition fee was received with the petition filed on 1 August, 2003.

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) 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

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P.O. Box 1450
Alexandria, VA 22313-1450
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KRISHNA KALIDINDI
POTOMAC PATENT GROUP, PLLC
P. O. BOX 270
FREDERICKSBURG, VA 22404

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OFFICE OF PETITIONS

In re Application of
LI et al.
Application No. 10/046,639
Filed: October 26, 2001
Attorney Docket No. 0331-020

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 15, 2005.

The requests are **APPROVED**.

A review of the file record indicates that Krishna Kalidindi: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. Krishna Kalidindi may not act in a representative capacity under 37 C.F.R. § 1.34 by filing or assist in drafting papers for this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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: MEREK, BLACKMON & VOORHEES, LLC
673 S. WASHINGTON ST.
ALEXANDRIA, VA 22314

cc: BURNS, DOANE, SWECKER & MATHIS, LLP
P.O. BOX 1404
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENNETH ALLEN
TOWNSEND AND TOWNSEND AND CREW, LLP
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 16 2006

OFFICE OF PETITIONS

In re Application of	:	
LI et al.	:	
Application No. 10/046,639	:	DECISION ON PETITION
Filed: October 26, 2001	:	TO WITHDRAW
Attorney Docket No. 0331-020	:	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 27, 2004.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Kenneth Allen 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: MEREK, BLACKMON & VOORHEES, LLC
673 S. WASHINGTON ST.
ALEXANDRIA VA 22314

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Paper No. 8

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

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JUL 0 8 2003

OFFICE OF PETITIONS

In re Application of	:
Michael S. Foster et al	:
Application No. 10/046,640	: DECISION GRANTING PETITION
Filed: October 26, 2001	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 030048032US	:

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 2664 for examination in due course.

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

Date: 07/23/08

Patent No. : 6936426 B2
Ser. No. : 10/046,651
Inventor(s) : SMITH, TERRY J.
Issued : 08/30/05
Title : **DETECTION OF ANTIBODY MEDIATED INFLAMMATORY AUTO-IMMUNE DISORDERS**
Docket No. : **P-HR 5213**

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

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

By mail: Mail Stop PETITIONS

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

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

By fax: (571) 273-0025
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.

Lamont M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703) 308-9390 #112

CATHERINE CAMPBELL
CAMPBELL & FLORES LLP
4370 LA JOLLA VILLAGE DRIVE
7TH FLOOR
SAN DIEGO CA 92122

LMN

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ALEXANDRIA, VA 22313-1450
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Paper No.

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

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OCT 3 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Roger Pennell	:	LETTER REGARDING
Application No. 10/046,660	:	PATENT TERM ADJUSTMENT
Filed: October 29, 2001	:	
Attorney Docket No. 11696-018001	:	
/0041-55300	:	

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed May 3, 2005, pursuant to applicants' duty of good faith and candor to the Office. Applicant states that the patent term adjustment appears to be incorrect, and may be longer than appropriate.

The request for correction of the initial determination of patent term adjustment (PTA) is **dismissed**.

On March 4, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 116 days. Applicant states no basis for their assertion that the patent term adjustment appears to be incorrect, and may be longer than appropriate.

A review of the application history reveals no basis for a conclusion that the patent term adjustment is incorrect or longer than appropriate.

As this letter was submitted as an attempt to advise the Office of an error in Applicant's favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks applicant for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Office of Patent Publication for issuance of the application. The patent will issue with any patent term adjustment accrued due to the Office taking in excess of four months to issue the patent, after the issue fee had been paid and all outstanding requirements met.

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

Kery A. Fries

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

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TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

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MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of	:	
BOOT, Hendrik et al.	:	
Application No. 10/046,671	:	DECISION GRANTING PETITION
Filed: January 14, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2183-5238US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 12, 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 February 1, 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 should be directed to Monica Graves at (571) 272-7253.

This application is being referred to Technology Center AU 1648 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed drawings.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Steven E. Kahm, Esq.
NIKOLAI & MERSEREAU, P.A.
900 Second Avenue South
Suite 820 of the International Centre
Minneapolis MN 55402

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MAY 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Terry Harmston	:	
Application No. 10/046,682	:	DECISION ON PETITION
Filed: 01/16/2002	:	
Attorney Docket No. 20136	:	

This is response to the communication filed March 17, 2005, 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 application file was recently forwarded to the Office of Petitions. The undersigned immediately reviewed the matter and issued the decision below upon receiving the file. The Office sincerely apologizes for any inconvenience.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the nonfinal Office action mailed May 30, 2003, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on February 11, 2004.

Petitioner asserts that the Office action dated May 30, 2003, was not received because it was mailed to an incorrect correspondence address.

A review of the written record indicates an irregularity in the mailing of the Office action of May 30, 2003. In this regard, the Office received a substitute power of attorney and change of address on February 24, 2003, prior to the mailing of the Office action of May 30, 2003. The Office records were not updated to reflect the substitute power of attorney or new change of address. Accordingly, as the Office action was mailed to an incorrect address, the Notice of Abandonment mailed February 11, 2004, is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 3634 for re-mailing the Office action of May 30, 2003, and resetting the period for reply from date of the re-mailing of the Office action.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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Manuel Valcacel
C/o Greenberg Traurig, P. A.
1221 Brickell Avenue
Miami, FL 33131

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OCT 17 2005

OFFICE OF PETITIONS

In re Application of :
Ivan Saltz :
Application No. 10/046,683 : ON PETITION
Filed: October 26, 2001 :
Attorney Docket No. 29890.010000

This is a decision on the petition under 37 CFR 1.137(b), filed August 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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

This application is being revived for consideration of the RCE.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 2100.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

ROBERT J. HARTER
4233 CLIFFSIDE DRIVE
LA CROSSE WI 54601

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JUN 2 5 2002

OFFICE OF PETITIONS

In re Application of :
Frederic M. Newman :
Application No. 10/046,688 : DECISION GRANTING PETITION
Filed: January 16, 2002 :
Attorney Docket No. 035 :

This is a decision on the petition filed April 4, 2002, requesting that the above-identified application be accorded a filing date of January 16, 2002.

On January 16, 2002, the above-identified application was deposited. On February 28, 2002, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (Notice), stating that the application had not been accorded a filing date as the application was deposited without drawings and that the filing date would be the date of receipt of the omitted drawings.

On April 4, 2002, applicant filed, inter alia, the present petition and three (3) sheets of formal drawings consisting of Figures 1-4. The petition is accompanied by a copy of applicant's postcard receipt acknowledging receipt of three (3) sheets of drawings in the United States Patent and Trademark Office (Office) on January 16, 2002. Applicant requests that the application, including three (3) sheets of drawings, be accorded a filing date of January 16, 2002.

Upon review of the record, three (3) sheets of drawings, deposited on January 16, 2002, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on January 16, 2002, included three (3) sheets of drawings, which were subsequently misplaced in the Office. Therefore, the application, including three (3) sheets of drawings, was complete on filing and entitled to a filing date of January 16, 2002.

Accordingly, the petition is granted.

The Notice mailed February 28, 2002, was sent in error and is hereby vacated. Therefore, no petition fee is necessary. The $130.00 petition fee will be refunded by treasury check.

The application file is being returned to the Office of Initial Patent Examination for **correction of the filing date to** January 16, 2002, using the three (3) sheets of drawings

submitted on April 4, 2002, and indicating in the Office records that three (3) sheets of drawings were included on filing. Additionally, the Office of Initial Patent Examination is directed to mail a corrected filing receipt to applicant.

Any inquiries related to this decision should be directed to Petitions Attorney Christina Tartera Donnell at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Beverly M. Flanagan

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

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COMMISSIONER FOR PATENT
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P.O. BOX 1450
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Paper No. 10

Andrew D. Meikle
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

JUL 22 2004

In re Application of:
Yamada, *et al.*
Application No. 10/046,739
Filed: January 17, 2002
For: THIN-FILM CRYSTAL WAFER HAVING PN JUNCTION AND METHOD FOR FABRICATING THE WAFER

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed on August 20, 2003, to withdraw the holding of abandonment of the above-identified application. A petition fee is not required.

The petition is **granted.**

Petitioner asserts that the Office action of November 20, 2002, was not received. The petition included a statement from the practitioner that the undersigned made a complete search of the file jacket and docketing records to establish non-receipt of the Office action. In addition, the petition included a copy of the docket records of the practitioner where the non-received Office action would have been entered had it been received by the practitioner.

A review of the written record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity 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 action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been 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 petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing of the November 20, 2002, Office action. The statutory periods for response set therein will be reset to run three months from the date the Office action is re-mailed.

The $130.00 petition fee charged to applicant's account will be credited to applicant's deposit account no. 02-2448.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (571) 272-1596.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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OFFICE OF PETITIONS

In re Application of	:	
Hisashi Yamada, et al.	:	
Application No. 10/046,739	:	DECISION ON PETITION
Filed: January 17, 2002	:	
Attorney Docket No. 3885-0102P	:	

This is a decision on the petition, filed May 4, 2005, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application. The delay in responding is regretted; however, the petition was recently referred to the Office of Petitions for consideration.

The petition is **GRANTED**.

This application was held abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed July 23, 2004. A Notice of Abandonment was mailed April 8, 2005. In response, on May 4, 2005, the present petition was filed.

Petitioner asserts that the Office action dated July 23, 2004 was not received.

A review of the application file reveals no irregularities in the mailing of the Office action of July 23, 2004. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Office action, petitioner must submit evidence to overcome this presumption. The following showing is required:

> 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 an one month

> 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 an one 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 one month 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.

Petitioner has adequately supported his claim of non-receipt with the evidence provided.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to Technology Center AU 2814 for appropriate action in the normal course of business on the reply received May 4, 2005.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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EITAN LAW GROUP
C/O LANDONIP, INC., SUITE 450
1700 DIAGONAL ROAD
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :

BARKAN, et al. :
Application No. 10/046,745 : DECISION ON PETITION
Filed: January 17, 2002 : TO WITHDRAW
Attorney Docket No. **P-9485-US** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 11, 2008.

The request is **NOT APPROVED.**

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MOTL BARTON**
12 HABARIM STREET
KIRA BIRICIN, ISRAEL 49935

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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OFFICE OF PETITIONS

In re Application of :
Huitao Lou :
Application No. 10/046,797 :
Filed: January 14, 2002 :
Attorney Docket No. 1001409-1 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 29, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of August 30, 2006 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on October 16, 2006. See MPEP 1214.06.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2628 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

In re Application of
Saito, et al.
Application No. 10/046,830
Filed: January 17, 2002
Attorney Docket No. P/16-301 DIV

DECISION GRANTING PETITION

This is a decision on the petition entitled, " RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A NON-PROVISIONAL APPLICATION," filed April 17, 2002 (certificate of mailing date April 8, 2002), requesting, in effect, withdrawal of the Notice to File Corrected Application Papers (Notice). The petition will be treated under 37 CFR 1.53(e).

The application was filed on January 17, 2002. On February 6, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that pages 39 and 57 of the specification and an abstract appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that pages 39 and 57 of the specification and the abstract found on page 75 of the original application be accorded a filing date of January 17, 2002 on the basis that 75 pages of specification, claims, and abstract were received in the Patent and Trademark Office (PTO) on January 17, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing January 17, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 75 pages of specification, claims and abstract. Only 72 pages of specification, claims and abstract are present in the application file. Those pages missing correspond to the allegedly omitted pages of the specification and the abstract.

The return postcard constitutes *prima facie* evidence that 75 pages of specification, claims and abstract, including pages 39, 57 and 75, were filed on January 17, 2002. MPEP 503. Accordingly, the request is granted.

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

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of January 17, 2002, using the copies of pages 39, 57 and 75 submitted with the instant petition.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

ROBERT D. FISH
RUTAN & TUCKER, LLP
P.O. BOX 1950
611 ANTON BLVD., 14TH FLOOR
COSTA MESA, CA 92628-1950

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OCT 20 2004

OFFICE OF PETITIONS

In re Application of	:	
Vanderburg, Mark	:	
Application No. 10/046,833	:	ON PETITION
Filed: January 15, 2002	:	
Attorney Docket No. 101175.0001US1	:	

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

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to submit formal drawings, the issue fee and the publication fee in a timely manner in reply to the Notice of Allowability and Notice of Allowance mailed May 20, 2003. Accordingly, the above-identified application became abandoned on August 21, 2003. A Notice of Abandonment was mailed on September 25, 2003.

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

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

---

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

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

The instant petition lacks item (1). The Office acknowledges the submission of the issue fee and publication fee with the instant petition. However, the Notice of Allowability also put forth the requirement that corrected drawings must be submitted, incorporating the changes made in the Examiner's Amendment mailed on May 20, 2003. To revive the above-identified application, petitioner must now submit the corrected drawings.

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

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

By hand: Customer Window located at:

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3282.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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ROBERT D. FISH
RUTAN & TUCKER, LLP
P.O. BOX 1950
611 ANTON BLVD., 14TH FLOOR
COSTA MESA CA 92628-1950

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JAN 1 3 2005

OFFICE OF PETITIONS

In re Application of :
Vanderburg, Mark :
Application No. 10/046,833 :
Filed: January 15, 2002 :
Attorney Docket No. 101175.0001US1 :

ON PETITION

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed December 3, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit formal drawings, the issue fee and the publication fee in a timely manner in reply to the Notice of Allowability and Notice of Allowance mailed May 20, 2003. Accordingly, the above-identified application became abandoned on August 21, 2003. A Notice of Abandonment was mailed on September 25, 2003.

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

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

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

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

10/046864

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20050123

DATE : January 23, 2006

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction on Patent No.: 6,907,593

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:

PTO printed an un-updated Abstract. Abstract in the Certificate of Correction filed 12/12/05 is the correct and updated Abstract filed on 2/9/04.

Jack K. Chiang
JACK CHIANG
SUPERVISORY PATENT EXAMINER

SPE: Jack Chiang **Art Unit** 2825

UNITED STATES PATENT AND TRADEMARK OFFICE

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

November 6, 2006

Patent No. : 7,082,108 B2
Ser. No. : 10/046881
Inventor(s) : Hwang, et al.
Issued : July 25, 2006
Title : **APPARATUS AND METHOD FOR CONTROLLING TRANSMISSION POWER IN AN NB-TDD CDMA COMMUNICATION SYSTEM**
Docket No. : 678-793

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 Rules 1.322 and 1.323.

A petition under C.F.R. 1.182 is required to correct errors in spelling or order of inventors names or addresses, since inventor's names or addresses are printed solely in accordance with the type-written names and address and in the order of the type- written names and address on the Declaration, and since the error was the result of applicant's failure to comply with the requirement that the complete and correct names and addresses in correct order be indicated on the Declaration of Oath, no correction is in order here under the provisions of Rules 1.323, unless a petition is granted.

In view of the foregoing, your request is hereby denied.

However, a petition under 37 CFR 1.182 should be directed to the attention of the Assistant Commissioner for Patents using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

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

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch.

Elisha Evans
Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
703 308- 9390 EXT. 110

WILLIAM R EVANS
C O LADAS & PARRY
26 WEST 61ST STREET
NEW YORK NY 10023

CBN/eme

UNITED STATES 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 G. LEV
4766 MICHIGAN BOULEVARD
YOUNGSTOWN, OH 44505

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OFFICE OF PETITIONS

In re Application of :
Ward Mullins, et al. :
Application No. 10/046,894 : ON PETITION
Filed: January 17, 2002 :
Attorney Docket No. 0036-023 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 3, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed April 7, 2005, which set a shortened statutory period for reply of three (3) months. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. An Advisory action was mailed September 2, 2005 indicating that the reply filed on August 8, 2005, failed to place the application in condition for allowance. Accordingly, the application became abandoned on September 8, 2005.

Petitioner has filed a continued prosecution application (CPA). As the result of amendments to 37 CFR 1.53(d)(1), a CPA may no longer be filed as part of a non-provisional application unless the application was filed prior to May 29, 2000.[1]

As stated in the Final Rules Package issued August 16, 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 (RCE) or the prior application (identified in the request for CPA) under new § 1.114 (unless the application has issued as a patent).[2]

---

[1] *See Changes to Application Examination and Provisional Application Practice*, final rule: 65 *Fed. Reg.* 50092 (August 16, 2000), 1238 *Off. Gaz. Pat. Office* 13 (September 5, 2000); interim rule: 65 *Fed. Reg.* 14865, 14872 (March 20, 2000), 1233 *Off. Gaz. Pat. Office* 47, 52 (April 11, 2000).

[2] *See Changes to Application Examination and Provisional Application Practice*, final rule: 65 *Fed. Reg.* at 50093.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, the $285 extension of time submitted with the petition on November 3, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded by treasury check in due course.

The unentered amendment filed August 8, 2005 will be considered the submission required under 37 CFR 1.114.

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 (filed August 8, 2005) and a Continued Prosecution Application (CPA) treated as a Request for Continued Examination (RCE); (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed November 3, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being forwarded to Technology Center 2100, Art Unit 2161 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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WALTER D. AMES
6718 WEMBERLY WAY
McLEAN, VA 22101

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OFFICE OF PETITIONS

In re Application of	:	
Gerhard J. Haas	:	
Application No. 10/046,897	:	ON PETITION
Filed: January 17, 2002	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 18, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 18, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendments submitted do not *prima facie* placing the application in condition for allowance, no 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 July 9, 2003.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

PENNIE & EDMONDS LLP
1667 K STREET NW
SUITE 1000
WASHINGTON DC 20006

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OFFICE OF PETITIONS

In re Application of	:	
Olsen, Bowen, Meissner, Zumbach	:	
Application No.: 10/046,907	:	
Filed: January 17, 2002	:	DECISION ACCORDING
Attorney Docket No: 10306-004-999	:	STATUS UNDER
For: METHOD AND SYSTEM FOR STORING AND	:	RULE 47(a)
PROCESSING HIGH-FREQUENCY DATA	:	

This is in response to the petition under 37 CFR 1.47(a), filed September 10, 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 March 21, 2002, indicating that petitioner did not to file a proper oath or declaration in compliance with 37 CFR 1.63. 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- 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 Bowen was presented with a complete copy of the application papers, inventor Bowen has, to date, failed to execute the same. Inventor Bowen's

failure to return the declaration, in spite of his presumed receipt of the same, will be interpreted as constructive refusal to join the prosecution of the application.

Petitioner has shown that the non-signing inventor has refused to join the filing of the above-identified application after having been presented with the application papers, and the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

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

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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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606-6357

Mail Date: 04/21/2010

Applicant	: Kari Alitalo	: DECISION ON REQUEST FOR
Patent Number	: 7611711	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/046,922	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/15/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **352** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

#3

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OFFICE OF PETITIONS

APPLICANT(S): Timothy R. Bratton *et al.*

APPLICATION NO.: 10/046,933

FILING DATE: October 26, 2001

TITLE: DELIVERING MEDIA DATA TO PORTABLE COMPUTING DEVICES

EXAMINER: Unassigned

GROUP ART UNIT: 2161

ATTY. DKT. NO.: 21685-06158

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: Box DAC, Commissioner For Patents, Washington, DC 20231, on the date shown below:

Dated: May 28, 2002 By: _____
Thomas L. Ewing, Reg. No. 34,328

BOX DAC
COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

PETITION UNDER 37 CFR 1.53(e) REGARDING DRAWINGS DEPOSITED WITH ORGINAL APPLICATION NOW MISSING AT THE PATENT OFFICE

The Notice to File Missing Parts of Nonprovisional Application, dated April 5, 2002, received in the above-identified patent application, includes a Notice of Omitted Items stating that two (2) sheets of formal drawings containing Figure 4 and Figure 7 have been omitted. A copy of the Notice to File Missing Parts that contains the Notice of Omitted Items is attached hereto. Applicants will respond separately to the Notice to File Missing Parts of Nonprovisional Application. The instant petition addresses only the Notice of Omitted Items.

Applicants contend that the drawing sheets containing Figure 4 and Figure 7 were deposited along with the entire application on October 26, 2001 in an Express Mail envelope labeled EL734639595US.

Adjustment date: 08/29/2002 AKELLEY
06/12/2002 AWONDAF1 00000158 10046933
01 FC:122 -130.00 OP

21685/06158/1/20762831
Refund Ref: 00000120300
08/29/2002 AKELLEY
CHECK Refund Total: $130.00
06/12/2002 AWONDAF1 00000158 10046933
01 FC:122 130.00 OP

Applicants submit the following evidence as proof of the deposit of Figure 4 and Figure 7 on October 26, 2001:

- Return Postcard showing deposit of 12 drawing sheets, the Return Postcard having no items checked off as an indication of non-receipt in accordance with MPEP 503.
- Declarations in support of the petition from the two patent secretaries who sealed the application in Express Mail envelope labeled EL734639595US stating that the allegedly omitted figures were included with the application.

Return Postcard

The Applicants included a self-addressed return postcard with the instant application that properly identified all the items submitted. MPEP 503 states that the properly identified items include: "(a) applicant's name(s); (B) title of invention; (C) number of pages of specification, claims (for nonprovisional applications), and sheets of drawing; (D) whether oath or declaration is included; (E) a list of any additional forms included with the application (e.g., application transmittal form, application data sheet, fee transmittal form, and/or provisional application cover sheet); and (F) amount and manner of paying the fee." (MPEP 503, p. 500-13, *emphasis added.*) The instant return postcard states that 12 drawing sheets have been submitted. The drawing sheets corresponding to Figure 4 and Figure 7 are two of these 12 drawing sheets.

MPEP 503 states that the Patent Office's policy regarding return postcards is: "The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the postcard initialed by the person receiving the items." MPEP 503, p. 500-15, *emphasis added.*

The postcard returned from the Patent Office has **no** items crossed off. A copy of the return postcard is attached hereto. Thus, the Patent Office has previously confirmed that all submitted items were received, including 12 sheets of drawings.

The Patent Office's policy regarding return postcards is: "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." (MPEP 503, p. 500-14). Accordingly, the instant petition **must** be granted since the Applicants followed the procedures stated in the MPEP and the return postcard states that all items had been received.

Declarations in Support of Petition

Applicants further include declarations from the two patent secretaries who prepared the application for filing and who sealed the application in its Express Mail envelope for delivery to the Patent Office. *See, Statement in Support of Petition Under 37 CFR 1.53(e)* by Aurelia Nolen and *Statement in Support of Petition Under 37 CFR 1.53(e)* by Patricia Floris. These declarations describe the procedures followed in preparing the allegedly omitted drawings and of the return postcard, and the secretaries' confirmation that both of the allegedly omitted drawings were sealed in the same Express Mail package that contained the rest of the application filed on October 26, 2001.

Conclusion

Applicants have now promptly established prior receipt in the USPTO of the allegedly omitted drawing(s) at issue by way of: 1) a date-stamped postcard receipt, and 2) declarations from the two persons who sealed the application in the Express Mailing envelope that the allegedly omitted drawings were, in fact, submitted.

Applicants have now provided more than sufficient evidence to show that omitted drawings were submitted to the Patent Office. Applicants further observe that this application was filed at the time of a postal emergency that affected the Patent Office. *See, e.g.*, The Patent Office Notice entitled: "Patent Applications submitted to the United

States Patent and Trademark Office between September 11, 2001 and December 1, 2001via the United States Postal Service." Applicants further observe that they did not receive the return postcard itself until February 11, 2002 (nearly four months after the application's filing). Applicants still further observe that the return postcard received in the instant application is considerably discolored and contains what appears to be some form of machine processing mark in its lower right corner. Applicants suspect that the postcard, as well as the entire application, may have undergone some form of decontamination procedure, and that this decontamination procedure may have caused Figures 4 and 7 to be misplaced. While this, of course, is a speculation on Applicants' part, the fact nevertheless remains that **all** the drawings, including Figures 4 and 7, were submitted to the Patent Office on October 26, 2001. Accordingly, favorable action on this instant petition is respectfully solicited.

In support of this petition, Applicants submit a copy of the return postcard, which was stamped and filed with the Patent and Trademark Office, indicating the number of drawings included in the filing of the subject application.

Applicants submit herewith the required petition fee of $130.00.

Respectfully submitted,
TIMOTHY R. BRATTON *ET AL.*

Dated: May 28 2002

By: _____

Thomas L. Ewing, Reg. No. 34,328
Fenwick & West LLP
Two Palo Alto Square
Palo Alto, CA 94306
Tel.: (415) 875-2336
Fax: (415) 281-1350

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PATENT

IN THE UNITED STATES

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JUN 1 4 2002
OFFICE OF PETITIONS

APPLICANT(S):	Timothy R. Bratton *et al.*
APPLICATION NO.:	10/046,933
FILING DATE:	October 26, 2001
TITLE:	DELIVERING MEDIA DATA TO PORTABLE COMPUTING DEVICES
EXAMINER:	Unassigned
GROUP ART UNIT:	2161
ATTY. DKT. NO.:	21685-06158

STATEMENT IN SUPPORT OF PETITION UNDER 37 CFR 1.53(e)

Dear Sir:

This Declaration of Facts is made to establish that Figure 4 and Figure 7 were included in the submission of the above-identified application on October 26, 2001. This Declaration of Facts is being made by a person having first-hand knowledge of the facts recited herein.

I, AURELIA NOLEN, state the following:

1. I am a patent secretary at the law firm of Fenwick & West LLP in San Francisco, California.

2. I prepared for filing the patent application now accorded the serial number 10/046,933 for filing on October 26, 2001.

3. I attached a label to each of the 12 sheets of formal drawings that were included in the application, each label including a drawing sheet number, the application title, the inventor's name, the attorney docket number, and the express mail number.

4. I verified that the application contained all 12 drawing sheets, including drawing sheet 7 (Fig. 4) and drawing sheet 10 (Fig. 7). A true copy of Figure 4 (drawing sheet 7) is attached as Exhibit A, and a true copy of Figure 7 (drawing sheet 10) is attached as Exhibit B.

5. I prepared a filing receipt postcard that accompanied the application submission, the post card affirming that 12 sheets of formal drawings had been submitted.

6. I sealed the application, including the 12 sheets of formal drawings, in a single envelope, bearing the Express Mail No. EL734639595US, that was deposited with the U.S. Postal Service on October 26, 2001. A true copy of the Express Mail filing receipt for this envelope is attached at Exhibit C.

7. I reviewed the above-identified postcard following its return from the U.S. Patent Office and observed that the number of drawing sheets received has not been crossed off (or otherwise marked) by the patent office staff who reviewed the postcard. A true copy of the postcard is attached as Exhibit D.

8. Based upon the foregoing, my belief is that Fenwick & West LLP did include Figure 4 and Figure 7 in the above-referenced application.

I hereby declare that all statements made herein to the best of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,
Aurelia Nolen

Dated: May 24, 2002

By: _____

EXHIBIT C

COPY OF PAPERS
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JUN 1 1 2002
PATENT & TRADEMARK OFFICE

EXPRESS MAIL
UNITED STATES POSTAL SERVICE®

POST OFFICE TO ADDRESSEE

EL 734639595 US

OCT 26 2001
GATEWAY STA
USPS

SEE REVERSE SIDE FOR SERVICE GUARANTEE AND LIMITS ON INSURANCE COVERAGE

Customer Copy
Label 11-F August 2000

ORIGIN (POSTAL USE ONLY)

PO ZIP Code 94126	Day of Delivery ☐ Next ☑ Second	Flat Rate Envelope ☐
Date In 10 26 01 (Mo. Day Year)	☐ 12 Noon ☐ 3 PM	Postage $ 16.25
Time In 17:25 ☐ AM ☑ PM	Military ☐ 2nd Day ☐ 3rd Day	Return Receipt Fee $
Weight 0 lbs. 2 ozs.	Int'l Alpha Country Code	COD Fee / Insurance Fee
No Delivery ☐ Weekend ☐ Holiday	Acceptance Clerk Initials	Total Postage & Fees $ 16.25

☐ WAIVER OF SIGNATURE (Domestic Only): Additional merchandise insurance is void if waiver of signature is requested. I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.

NO DELIVERY ☐ Weekend ☐ Holiday Customer Signature

CUSTOMER USE ONLY

METHOD OF PAYMENT: X941211
Express Mail Corporate Acct. No.

Federal Agency Acct. No. or Postal Service Acct. No.

FROM: (PLEASE PRINT) PHONE ( )

FENWICK & WEST
275 BATTERY ST STE 1500
SAN FRANCISCO CA 94111-3334
Thomas Ewing/an
21685-06158
(October 26, 2001)

TO: (PLEASE PRINT) PHONE ( )

BOX PATENT APPLICATION
COMMISSIONER
OF PATENTS
WASHINGTON DC 20231-9998

FOR PICKUP OR TRACKING CALL 1-800-222-1811 www.usps.com EMS

OIPE
JUN 1 1 2002
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COPY OF PAPERS
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EXHIBIT D

Date Mailed: October 26, 2001 | Atty/Sec: TLE/an | Filing Date: HEREWITH
Application No.: NEW | Docket No.: 21685-06158
Applicants: Timothy R. Bratton *et al.*
Title: DELIVERING MEDIA DATA TO PORTABLE COMPUTING DEVICES

Please imprint Patent Office "date stamp" hereon to indicate receipt and then return card to addressee

- ☒ 48 pages of Specification, Claims & Abstract
- ☒ 12 sheets of formal drawings
- ☐ Provisional Application Cover Sheet
- ☒ New Utility Application Transmittal
- ☐ Transmittal
- ☒ Fee Transmittal (in duplicate)
- ☐ Declaration
- ☐ Power of Attorney or Authorization of Agent
- ☐ Assignment & Recordation Cover Sheet
- ☐ CPA Request Transmittal
- ☒ Application Data Sheet
- ☐ Check in the amount of $
- ☐ Request and Certification under 35 U.S.C. 122(b)(2)(B)(i)
- ☐ Amendment/Response
- ☐ Response to Notice to File Missing Parts
- ☐ Request to Correct Filing Receipt
- ☐ IDS, PTO-1449, and cited references
- ☐ Issue Fee Transmittal
- ☐ Letter to Chief Draftsperson
- ☐ Request for Certificate of Correction
- ☐ Small Entity Assertion Under 37 CFR 1.27
- ☐ First Class Certificate of Mailing
- ☒ Box Patent Application
- ☒ Express Mail No. EL734639595US

Other:

J1046 U.S. PTO
10/046933
10/26/01

21685-06158

21685/06158/SR/5061789

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PALO ALTO CA 94306-9752

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OFFICE OF PETITIONS

APPLICANT(S):	Timothy R. Bratton *et al.*
APPLICATION NO.:	10/046,933
FILING DATE:	October 26, 2001
TITLE:	DELIVERING MEDIA DATA TO PORTABLE COMPUTING DEVICES
EXAMINER:	Unassigned
GROUP ART UNIT:	2161
ATTY. DKT. NO.:	21685-06158

STATEMENT IN SUPPORT OF PETITION UNDER 37 CFR 1.53(e)

Dear Sir:

This Declaration of Facts is made to establish that Figure 4 and Figure 7 were included in the submission of the above-identified application on October 26, 2001. This Declaration of Facts is being made by a person having first-hand knowledge of the facts recited herein.

I, PATRICIA FLORIS, state the following:

1. I am a patent secretary at the law firm of Fenwick & West LLP in San Francisco, California.

2. I assisted Aurelia Nolen prepare for filing the patent application now accorded the serial number 10/046,933 for filing on October 26, 2001.

3. I verified that Mrs. Nolen attached a label to each of the 12 sheets of formal drawings that were included in the application, each label including a drawing sheet number, the application title, the inventor's name, the attorney docket number, and the express mail number.

4. I verified that the application contained all 12 drawing sheets, including drawing sheet 7 (Fig. 4) and drawing sheet 10 (Fig. 7). *See*, Exhibits A and B of the Declaration of Aurelia Nolen for true copies of Figure 4 (drawing sheet 7) and Figure 7 (drawing sheet 10).

5. I reviewed the filing receipt postcard that accompanied the application submission, the post card affirming that 12 sheets of formal drawings had been submitted.

6. I verified that Aurelia Nolen sealed the application, including the 12 sheets of formal drawings, in a single envelope, bearing the Express Mail No. EL734639595US, that was deposited with the U.S. Postal Service on October 26, 2001. *See*, Exhibit C of the Declaration of Aurelia Nolen for a true copy of the Express Mail filing receipt.

7. I reviewed the above-identified postcard following its return from the U.S. Patent Office and observed that the number of drawing sheets received has not been crossed off (or otherwise marked) by the patent office staff who reviewed the postcard. *See*, Exhibit D of the Declaration of Aurelia Nolen for a true copy of the postcard.

8. Based upon the foregoing, my belief is that Fenwick & West LLP did include Figure 4 and Figure 7 in the above-referenced application.

I hereby declare that all statements made herein to the best of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,
Patricia Floris

Dated: May 24, 2002

By: Patricia A. Floris

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

FENWICK & WEST LLP
TWO PALO ALTO SQUARE
PALO ALTO CA 94306

COPY MAILED

AUG 2 9 2002

OFFICE OF PETITIONS

In re Application of
Bratton, et al.
Application No. 10/046,933
Filed: October 26, 2001
Attorney Docket No. 21685-06158
For: DELIVERING MEDIA DATA TO PORTABLE COMPUTING DEVICES

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed June 11, 2002 (certificate of mailing date May 28, 2002), requesting, in effect, withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed April 5, 2002, with respect to the assertion that Figures 4 and 7 were not filed on October 26, 2001.

The application was filed on October 26, 2001. On April 5, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that Figures 4 and 7 described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that Figures 4 and 7 be accorded a filing date of October 26, 2001 on the basis that 12 sheets of drawing figures, including Figures 4 and 7, were received in the Patent and Trademark Office (PTO) on October 26, 2001. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing October 26, 2001 as the date of receipt. The postcard lists, *inter alia*, that the filing included 12 sheets of formal drawings.

The return postcard constitutes *prima facie* evidence that 12 sheets of drawing figures, including Figures 4 and 7, were filed on October 26, 2001. MPEP 503. Accordingly, the request is granted.

The $130.00 petition fee will be refunded. A treasury check will be scheduled in due course.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of October 26, 2001, using the copies of Figures 4 and 7 submitted with the instant petition. Office records will be corrected to show that 12 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

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

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 08/23/02 | 2 Serial/Patent # 10/046,933

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	3	6/11/02	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ 130.00

8 TO BE REFUNDED BY:

X Treasury Check

Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Postcard receipt proves allegedly omitted figures were present at filing. No pet fee for Office error

11 REFUND REQUESTED BY:

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

SIGNATURE: E. Shirene Willis PHONE: 308-6712

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Kelly DATE: 8/29/02

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

FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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OFFICE OF PETITIONS

In re Application of	:	
Bratton et al.	:	
Application No. 10046933	:	DECISION ON PETITION
Filed: October 26, 2001	:	TO WITHDRAW
Attorney Docket No. 21685-06158	:	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 16, 2004.

The request is **MOOT**.

A review of the file record indicates that the power of attorney to Fenwick & West LLP has been revoked by the assignee of the patent application on January 1, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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Paper No. 8

STEPHEN M NIPPER
DYKAS SHAVER & NIPPER LLP
PO BOX 877
BOISE ID 83701

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DEC 01 2003

OFFICE OF PETITIONS

In re Application of
Tom Tomlin
Application No. 10/046,948
Filed: January 14, 2002
Attorney Docket No. TOMT101

ON PETITION

This is a decision on the Petition for Revival of an Application Abandoned Unavoidably Under 37 CFR 1.137(a), filed November 20, 2003 (Certificate of Mailing dated November 17, 2003).

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

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed October 9, 2002. This Office action set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on January 10, 2003. A Notice of Abandonment was mailed on May 15, 2003.

Consideration of petition under 1.137(a) (Unavoidable Delay)

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(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).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable: "The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[2]

Petitioner asserts multiple reasons for the unavoidable abandonment of the application. First, petitioner argues that he received ineffective assistance of counsel from his prior attorney. Petitioner has supplied a copy of a letter from his prior attorney, dated December 9, 2002, transmitting a copy of the non-final Office action. The letter explained the process of filing a response to the non-final Office action, including the fee schedule for filing a response with an extension of time. In addition, the letter explained that if a response was not filed on or before April 9, 2003, the application would go abandoned.

Petitioner asserts that despite orally instructing his attorney to file an "appeal" to the non-final Office action, his attorney never did so. According to petitioner, his attorney never explained to him the process involved, or that his application would go abandoned.

The Patent and Trademark Office must rely upon the actions or inactions of an applicant's registered attorney or agent.

Petitioner also argues that his and his wife's medical and financial condition at the time prevented him from dealing with his prior counsel.

A showing of "unavoidable" delay based upon incapacitation must establish that petitioner's incapacitation was of such nature and degree as to render petitioner unable to conduct business transactions during the period between October 9, 2002 and April 9, 2003. Such a showing must be supported by a statement from

---

[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).

petitioner's treating physician, and such statement must provide the nature and degree of petitioner's incapacitation during the above-mentioned period.

Similarly, a showing of "unavoidable" delay based upon financial hardship must also be supported by documentation (e.g. copies of bankruptcy papers, income tax returns, W-2s, copies of bills, etc.).

If petitioner can not establish that the entire period of delay was unavoidable, petitioner may revive the above-identified application under the provisions of 37 CFR 1.137(b), unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

A copy of the form for a petition to revive due to unintentional delay is enclosed for petitioner's convenience.

The Revocation and Power of Attorney filed with the petition has been entered. Future correspondence concerning this application will be mailed to the new attorney of record at the above address.

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: 703-746-3258
Office of Petitions
Attn: Cliff Congo

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/64 (2 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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STEPHEN M NIPPER
DYKAS SHAVER & NIPPER LLP
PO BOX 877
BOISE ID 83701

COPY MAILED
MAR 0 8 2004
OFFICE OF PETITIONS

In re Application of :
Tom Tomlin :
Application No. 10/046,948 : ON PETITION
Filed: January 14, 2002 :
Attorney Docket No. TOMT101 :

This is a decision on the Petition for Revival of an Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed February 26, 2004 (Certificate of Mailing dated February 23, 2004).

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed October 9, 2002. This Office action set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on January 10, 2003. A Notice of Abandonment was mailed on May 15, 2003. Applicant filed a petition to revive under 37 CFR 1.137(a) on November 20, 2003. However, this petition was dismissed in a decision mailed on December 1, 2003.

With the instant petition, petitioner paid the petition fee, filed a reply in the form of an amendment, and made the proper statement of unintentional delay.

The application file is being forwarded to Group Art Unit 3632 for consideration by the examiner of the amendment filed February 26, 2004.

Telephone inquiries specific to this decision may 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
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Paper No. 12

Chad M. Hinrichs
Doerner Saunders Daniel & Anderson
320 South Boston
Suite 500
Tulsa, OK 74103

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JUL 2 5 2003

OFFICE OF PETITIONS

In re Application of :
R. J. Carr :
Application No. 10/046,957 : DECISION GRANTING PETITION
Filed: January 14, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. CAR780-00/01700 :

This is a decision on the petition, filed May 14, 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 January 14, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to revive for failure to timely notify the Office of the filing of an application in a foreign country must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the

required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 30, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Latrice Bond at (703) 308-6911.

This application is being forwarded to Technology Center Art Unit for appropriate consideration of the reply filed April 28, 2003 in response to the Office action mailed November 21, 2002.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Marianne C. Morgan for
Frances Hicks
Lead Petitions Examiner

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. ____

GRAY CARY WARE & FREIDENRICH LLP
4365 EXECUTIVE DRIVE, SUITE 1100
SAN DIEGO, CA 92121-2133

COPY MAILED

JAN 2 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Svetlana A. Lyapina et al	:	
Application No. 10/046,961	:	DECISION GRANTING PETITION
Filed: January 14, 2002	:	UNDER 37 CFR 313(c)(2)
Attorney Docket No. CIT1510-3	:	

This is a decision on the petition, filed January 22, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 28, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1651 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statemenet.

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

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

COPY MAILED

JAN 25 2008

OFFICE OF PETITIONS

In re Patent No. 6832227	:	
Issue Date: 12/14/2004	:	
Application No. 10/046981	:	ON PETITION
Filed: 01/17/2002	:	
Attorney Docket No. ASA-1049	:	

This is a decision on the petition filed on October 3, 2007 (certificate of facsimile transmission date April 22, 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**.

It is noted that although the assignment document itself correctly captions the assignees' names, the Recordation Form Cover Sheet omits the name of assignee "Hitachi Software Engineering Co. Ltd." It is noted also that a corrected cover sheet was recorded after issuance of the patent..

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

D Wood
Douglas I. Wood
Attorney
Office of Petitions

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Jeffrey L. Streets
Suite 355
13831 Northwest Freeway
Houston TX 77040

MAILED

FEB 27 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Himmel, et al. :
Application No. 10/047,004 :
Filed: January 16, 2002 :
Attorney Docket No. AUS920010629US1 :
For: AUTOMATICALLY SENDING A URL
BY E-MAIL OR TELEPHONE

This is a decision on the petition, filed January 14, 2009, 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 one month or thirty days, whichever was longer, of the mailing of the October 28, 2008 Office letter. No response being received, this application became abandoned on November 29, 2008.

Applicant has submitted an amendment in reply to the October 28, 2008 Office letter, an acceptable statement of the unintentional nature of the delay in responding to the October 28, 2008 Office letter, 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 2443 for consideration of the amendment filed on January 14, 2009.

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

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

IBM CORPORATION
PO BOX 12195
DEPT YXSA, BLDG 002
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Maria Azua Himmel	: DECISION ON REQUEST FOR
Patent Number	: 7593990	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/047,004	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/16/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1942** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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IBM CORPORATION
PO BOX 12195
DEPT YXSA, BLDG 002
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 05/17/2010

Applicant : Maria Azua Himmel
Patent Number : 7593990
Issue Date : 09/22/2009
Application No : 10/047,004
Filed : 01/16/2002

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1975** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 07-02

Paper No. 7

E. JOSEPH GESS
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

COPY MAILED

JUL 1 5 2002

OFFICE OF PETITIONS

In re Application of	:
Rainis et al.	: DECISION GRANTING
Application No. 10/047,015	: PETITION
Filed: 15 January, 2002	:
Attorney Docket No. 005950-720	:

This is a decision on the petition styled under 37 CFR 1.53(e) filed on 3 April, 2002, which is treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of 15 January, 2002, rather than the presently accorded filing date of 14 January, 2002.

Petitioner alleges that the application was deposited in Express Mail service on 15 January, 2002. In support, on 3 April, 2002, petitioner supplied a copy of Express Mail Label No. EL766105204US (the same Express Mail number found on the application transmittal letter accompanying the original application papers located in the official file). Although the "date-in" on the Express Mail label appears to be "1/14/02", the Express Mail label also contains a USPS postmark dated January 15, 2002. Furthermore, a search of the USPTO's USPS Express Mail Information Database reveals that this Express Mail Label No. was accepted by the USPS on 15 January, 2002.

In view of the above, the petition is granted. The petition fee of $130.00 will be credited to counsel's deposit account, No. 02-4800 as authorized in the petition.

The application is being returned to the Office of Initial Patent Examination (OIPE) for correction of the filing date to 15 January, 2002, and for issuance of a corrected Filing Receipt.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 08-02

Paper No. 8

HUMAN GENOME SCIENCES INC
9410 KEY WEST AVENUE
ROCKVILLE MD 20850

COPY MAILED

AUG 1 2 2002

OFFICE OF PETITIONS

In re Application of	:	
Moore et al.	:	
Application No. 10/047,021	:	DECISION GRANTING PETITION
Filed: 17 January, 2002	:	
Attorney Dkt. No. PZ016P2	:	

This is a decision on the petition filed on 6 June, 2002, requesting that the above-identified application be accorded a filing date of 17 January, 2002, rather than the currently accorded filing date of 15 January, 2002.

On 17 January, 2002, the application was filed.

On 29 March, 2002, the Office of Initial Patent Examination mailed a filing receipt, showing that the application had been accorded a filing date of 15 January, 2002.

On 6 June, 2002, the present petition was filed. Petitioners argue that the application was filed on 17 January, 2002, rather than 15 January, 2002. In support, petitioners supplied a copy of two postcard receipts with the present petition. One postcard receipt shows an Office date stamp of 17 January, 2002, and acknowledges receipt of, *inter alia*, 690 pages of specification (including 4 pages of claims (23 claims) and 1 page of abstract) and 2 sheets of drawings. The other postcard receipt itemizes the same papers and bears an Office date stamp of 15 January, 2002, and the above-identified application number. Petitioners request that the application be accorded a filing date of 17 January, 2002.

The Office is construing the postcard bearing an Office date stamp of 17 January, 2002, as the first postcard. Apparently, the filing date was incorrectly entered in Office PALM records as 15 January, 2002, after receipt of the application in the USPTO

on 17 January, 2002. Petitioners **must** inform the Office if this is not a correct interpretation.

In view of the above, the petition is granted. The petition fee of $130.00 is unnecessary and will be credited to counsel's deposit account, No. 08-3425

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of 17 January, 2002, not 15 January, 2002, and for issuance of a corrected filing receipt.

Telephone inquiries 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 07-02

Paper No. 4

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

COPY MAILED

JUL 1 8 2002

OFFICE OF PETITIONS

In re Application of	:	
Saito et al.	:	
Application No. 10/047,025	:	DECISION DISMISSING
Filed: 17 January, 2002	:	PETITION
Attorney Docket No. P/16-302 DIV	:	

This is a decision on the petition filed on 17 April, 2002, requesting that the "Notice of Omitted Item(s) in a Nonprovisional Application" mailed 4 April, 2002, in the above-identified application be withdrawn.

The application was filed on 17 January, 2002. However, on 17 April, 2002, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" stating that the application had been accorded a filing date of 17 January, 2002, and advising applicants that Pages 7 & 8 of the specification (description and claims) and Figures 1-17, 20, 24-31, 33-36, 38, 40, 42 & 44-46 described in the specification appeared to have been omitted from the application.

In response, on 17 April, 2002, the present petition was filed. Petitioner asserts that Pages 7 & 8 of the specification and Figures 1-17, 20, 24-31, 33-36, 38, 40, 42 & 44-46 were filed with the other application papers deposited on 17 January, 2002, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 17 January, 2002, and bears the above-identified application number. The postcard identifies the application by the first named inventor's name, invention title, and attorney docket number and acknowledges receipt of, *inter alia*, 75 pages of specification, claims, and abstract and

29 sheets of drawings containing Figures 1-46. Petitioners request that the application, including Pages 7 & 8 of the specification and drawing Figures 1-17, 20, 24-31, 33-36, 38, 40, 42 & 44-46, be accorded a filing date of 17 January, 2002.

A review of the record reveals that no Pages 7 & 8 of the specification or sheets of drawings containing Figures 1-17, 20, 24-31, 33-36, 38, 40, 42 & 44-46 have been located among the application papers deposited on 17 January, 2002. However, the evidence is convincing that the application papers deposited on 17 January, 2002, included Pages 7 & 8 of the specification as well as drawing Figures 1-17, 20, 24-31, 33-36, 38, 40, 42 & 44-46, which were subsequently misplaced in the Office.

The petition is dismissed, however, because a review of the papers filed with the present petition reveals that petitioners have not supplied a copy of the sheet of drawings containing Figure 45 described in the specification. Petitioners must therefore supply a copy of the one (1) sheet of drawings containing Figure 45 on 17 January, 2002. The petition is therefore dismissed without prejudice to reconsideration pending submission of a copy of Figure 45.

The petition fee of $130.00 will be charged to counsel's deposit account, No. 15-0700.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may <u>not</u> be extended pursuant to 37 CFR 1.136. The application will be retained in the Office of Petitions for **TWO (2) MONTHS** to await petitioner's reply to this decision. If no response is received within two (2) months, the application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of 17 January, 2002, using the application papers filed on that date as well as the copies of Pages 7 & 8 of the specification and the 21 sheets of drawings containing Figures 1-17, 20, 24-31, 33-36, 38, 40, 42, 44, and 46 supplied on 17 April, 2002.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner of Patents
Box DAC
Washington, D.C. 20231

By FAX: (703)308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

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
WASHINGTON, D.C. 20231
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DIW 08-02

Paper No. 6

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

COPY MAILED

AUG 2 0 2002

OFFICE OF PETITIONS

In re Application of	:	
Saito et al.	:	
Application No. 10/047,025	:	DECISION GRANTING
Filed: 17 January, 2002	:	PETITION
Attorney Docket No. P/16-302 DIV	:	

This is a decision on the renewed petition filed on 12 August, 2002, requesting that the "Notice of Omitted Item(s) in a Nonprovisional Application" mailed 4 April, 2002, in the above-identified application be withdrawn.

The application was filed on 17 January, 2002. However, on 21 February, 2002, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" stating that the application had been accorded a filing date of 17 January, 2002, and advising applicants that Pages 7 & 8 of the specification (description and claims) and Figures 1-17, 20, 24-31, 33-36, 38, 40, 42 & 44-46 described in the specification appeared to have been omitted from the application. The petition filed on 17 April, 2002, was dismissed on 18 July, 2002.

In response, on 12 August, 2002, the present request for reconsideration was filed. Petitioners again assert that Pages 7 & 8 of the specification and Figures 1-17, 20, 24-31, 33-36, 38, 40, 42 & 44-46 were filed with the other application papers deposited on 17 January, 2002, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied on 17 April, 2002. The postcard receipt shows an Office date stamp of 17 January, 2002, and bears the above-identified application number. The postcard identifies the application by the first named inventor's name, invention title, and attorney docket number and acknowledges receipt of, *inter alia*, 75 pages of specification, claims, and abstract and 29 sheets of drawings containing Figures 1-46. Petitioners request that the application, including Pages 7 & 8 of the specification and drawing Figures 1-17, 20, 24-31, 33-36, 38, 40, 42 & 44-46, be accorded a filing date of 17 January, 2002.

A review of the record reveals that no Pages 7 & 8 of the specification or sheets of drawings containing Figures 1-17, 20, 24-31, 33-36, 38, 40, 42 & 44-46 have been located among the application papers deposited on 17 January, 2002. However, the evidence is convincing that the application papers deposited on 17 January, 2002, included Pages 7 & 8 of the specification as well as drawing Figures 1-17, 20, 24-31, 33-36, 38, 40, 42 & 44-46, which were subsequently misplaced in the Office. Therefore, the application, including Pages 7 & 8 of the specification and the 21 sheets of drawings containing Figures 1-17, 20, 24-31, 33-36, 38, 40, 42 & 44-46 as described in the specification, is entitled to a filing date of 17 January, 2002.

The "Notice" mailed on 21 February, 2002, is vacated. The petition fee will be refunded to counsel's deposit account, No. 15-0700.

The application will be processed and examined using the application papers filed on 17 January, 2001; the copies of Pages 7 & 8 of the specification and 20 sheets of drawings containing Figures 1-17, 20, 24-31, 33-36, 38, 40, 42, 44, and 46 supplied on 17 April, 2002, and the copy of one (1) sheet of drawings containing Figure 45 supplied on 12 August, 2002.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 17 January, 2002, using the application papers filed on 17 January, 2002; the copies of Pages 7 & 8 of the specification and 20 sheets of drawings containing Figures 1-17, 20, 24-31, 33-36, 38, 40, 42, 44, and 46 supplied on 17 April, 2002, and the copy of one (1) sheet of drawings containing Figure 45 supplied on 12 August, 2002, and for an indication on the bib-data sheet that 29 sheets of drawings were present on filing.

Telephone inquires should be directed to the undersigned at 703.308.6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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MITCHELL J. WEINSTEIN
22ND FLOOR
120 SOUTH RIVERSIDE PLAZA
CHICAGO, IL 60606-3945

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OFFICE OF PETITIONS

In re Application of	:	
Skoufis, John	:	
Application No. 11/047,035	:	DECISION ON PETITION
Filed: January 31, 2005	:	
Attorney Docket No. 14730.99 (35371-63717)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 14, 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 Election, (2) the petition fee, and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2627 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

LEVENFELD PEARLSTEIN
2 N. LASALLE STREET
SUITE 1300
CHICAGO, IL 60602

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

In re Application of	:	
J. Barry Shackleford	:	
Application No. 10/047,045	:	DECISION ON PETITION
Filed: January 14, 2002	:	
Attorney Docket No. 10017560-1	:	

This is a decision on the petition, filed December 7, 2005 under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of, June 29, 2004, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before September 29, 2004.

Petitioner states that a timely reply was transmitted by facsimile transmission on October 29, 2004, which included the following papers: Response/Amendment, One Month Extension of Time and Transmittal Letter. Petitioner has submitted a copy of the previously transmitted correspondence, which bears a certificate of facsimile transmission on October 29, 2004, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided

with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of June 29, 2004 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been transmitted by facsimile on December 7, 2005.

This application is being referred to Technology Center AU 1631 for appropriate action in the normal course of business on the reply received with petition.

Karen Creasy

Karen Creasy
Petitions Examiner
Office Of Petitions

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COMMISSIONER FOR PATENTS
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TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

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MAY 1 1 2004

OFFICE OF PETITIONS

In re Application of
Garry A. Mercaldi, et al. :
Application No. 10/047,051 : ON PETITION
Filed: January 14, 2002 :
Attorney Docket No. 3364.5US (96-1135.4) :

This is a decision on the petition under 37 CFR(c)(2) to withdraw the above-identified application from issue after payment of the issue fee, filed May 5, 2004.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid, December 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 relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center 1763 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mailed: APR 8 2004

spg
Paper Number 8

In re application of
Pekka Koivukunnas et al.
Serial No. 10/047,054
Filed: January 14, 2002
For: ARRANGEMENT FOR MEASURING PROPERTIES OF A MOVING PAPER WEB

DECISION ON PETITION

This is a response to the PETITION UNDER 37 C.F.R. 1.181 TO WITHDRAW HOLDING OF ABANDONMENT IN ACCORDANCE WITH MPEP § 711.03(c) AND 1156 O.G. 53 filed November 21, 2003. The petition requests that the abandonment, as set forth in the Notice of Abandonment of November 18, 2003, for failure to timely file a proper reply to the Office letter of March 13, 2003, be withdrawn since the applicants did timely file a response thereto on June 5, 2003 by facsimile transmission to the USPTO. (A copy of the papers filed June 5, 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 5, 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 5 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 13, 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 5, 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

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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)
6588481	2003-07-08	10047087	2002-01-17	

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	/Chao-Chang David Pai/	Date (YYYY-MM-DD)	2008-03-03
Name	Chao-Chang David Pai	Registration Number	51195

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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United States Patent and Trademark Office
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In re Patent No. 6588481
Issue Date: July 8,2003
Application No. 10047087
Filed: January 17,2002
Attorney Docket No. BHT-3125-94

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 3,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 3,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Hiroshi Kayakiri et al :
Application No. 10/047,093 : DECISION GRANTING PETITION
Filed: January 17, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 21738US)DIV :

This is a decision on the petition, filed September 3, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 1625 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).*

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MARK S. WALKER
IPLAW DEPT. - IMAD 4054
IBM CORPORATION
11400 BURNET ROAD
AUSTIN, TX 78758

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OCT 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Cristi Nesbitt Ullmann et al :
Application No. 10/047,095 : DECISION GRANTING PETITION
Filed: January 15, 2002 : UNDER 37 CFR 1.137(a)
Attorney Docket No. AUS920010906.US1 :

This is a decision on the petition under 37 CFR 1.137(a), filed October 11, 2005, to accept an unavoidably delayed reply and 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 4, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 5, 2005.

Petitioner asserts that failure to timely reply was caused by failure to receive the non-final Office action of January 4, 2005 and has proffered evidence in support thereof. Additionally, the petition is accompanied by the reply to the outstanding Office action.

The showing presented is sufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Accordingly, the reply to the non-final Office action of January 4, 2005 is accepted as having been unavoidably delayed.

Inquiries concerning this decision on petition should be directed to the undersigned at (571) 272-3218. Inquiries concerning the examination procedures or status of this application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 2151 for appropriate action on the concurrently filed reply.

Frances Hicks
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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CYNTHIA S. BYRD
INTERNATIONAL BUSINESS MACHINES CORPORATION
INTELLECTUAL PROPERTY LAW DEPARTMENT
11400 BURNET ROAD, INTERNAL ZIP 4054
AUSTIN, TX 78758

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OFFICE OF PETITIONS

In re Application of	:	
ULLMANN, et al.	:	
Application No. 10/047,116	:	DECISION ON PETITION
Filed: January 15, 2002	:	
Attorney Docket No. **AUS920010907.US1**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 21, 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 May 29, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed February 28, 2007. Accordingly, the date of abandonment of this application is May 30, 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, the publication fee of $300, (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

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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Paper No. 6

WILLIAMS MORGAN & AMERSON PC
10333 RICHMOND
SUITE 1100
HOUSTON TX 77042

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OFFICE OF PETITIONS

In re Application of
Brian C. Barnes, et al.
Application No. 10/047,188
Filed: January 15, 2002
Attorney Docket No.
2000.056900/TT4089

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 November 5, 2003 (Certificate of Mailing dated November 3, 2003).

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of an international application filed on September 12, 2002. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the international application.

In view of the above, the application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing which sets forth a projected publication date of March 4, 2004 accompanies this decision.

The application file is being forwarded to Technology Center 2100, Group Art Unit 2134, 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: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing (1 page)

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

WELLS ST. JOHN ROBERTS GREGORY & MATKIN P.S.
601 W. FIRST AVENUE
SUITE 1300
SPOKANE, WA 99201-3828

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AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of
Ronald E. Gilbert et al.
Application No. 10/047,198
Filed: October 26, 2001
Attorney Docket No. PY2-023

: DECISION DISMISSING
: PETITION

This is a decision on the petition filed April 17, 2002, in response to the Notice of Omitted Items, requesting that page 6 of 8 (figures 11 and 12) of the drawings be accepted as having been filed with the original application.

On October 26, 2001, the application was filed.

On March 29, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Items in a Nonprovisional Application stating that the application had been accorded a filing date of October 26, 2001, but that, *inter alia*, Figures 7, 11 and 12 described in the specification appeared to have been omitted from the application.

In response, on April 17, 2002, the present petition was filed. Petitioners argue that due to misnumbering, there was in fact no figure 7 and that figures 11 and 12 which can be found on page 6 of 8 were in fact included. Therein, petitioners argue that a complete application was present on October 26, 2001, for filing date purposes. Petitioners point to their postcard receipt and the itemized transmittal letter as evidence that 8 pages of drawings including page 6 (figures 11 and 12) was among the application papers filed on October 26, 2001. Petitioners request that the application be accorded a filing date of October 26, 2001, with Page 6 as a part of the original disclosure.

The argument and evidence supplied with the petition have been carefully considered, but are not persuasive. The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503).

Unfortunately, in this case, petitioners' postcard receipt is illegible and therefore cannot serve as proof of the contents of the application package filed October 26, 2001 or whether it is date stamped by the USPTO, which is the purpose of the post card receipt. The application transmittal letter is, at best, only evidence of what was intended to be filed, not evidence of what was actually received or filed in the USPTO. Finally, the Office considers the date the paper or fee is shown to have been deposited in "Express Mail" to be the "Date-in" on the Express Mail label. That is the date that verifies that the package was actually mailed. In this instance, the only purpose for petitioner to submit the express mail label would be to show that the application was deposited and received in the USPTO but, the contents of that package cannot be ascertained.

The petition is dismissed.

The copy of Page 6 (figures 11 and 12) supplied with the present petition will not be used for processing or examination, but will be retained in the application file. Petitioner may file Page 6 as a preliminary amendment. If Page 6 is filed as a preliminary amendment, the amendment will be reviewed for new matter.

As this petition was necessitated by applicants' filing error rather than an error on the part of the Office, the petition fee will not be refunded.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of October 26, 2001, using the application papers filed on that date.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Patricia Faison-Ball 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

Beverly M. Flanagan

Beverly M. Flanagan
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper 6

WELLS ST. JOHN ROBERTS GREGORY & MATKIN P.S.
601 W. FIRST AVENUE
SUITE 1300
SPOKANE WA 99201-3828

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APR 07 2003

OFFICE OF PETITIONS

In re Application of
Ronald E. Gilbert et al.
Application No. 10/047,198
Filed: October 26, 2001
Attorney Docket No. PY2-023

DECISION GRANTING PETITION

This is a decision on the renewed petition filed October 1, 2002, under 37 CFR 1.10, which is treated under 37 CFR 1.53, in response to the "Notice of Omitted Items" mailed October 25, 2001.

The instant application was filed October 26, 2001 and a filing date was accorded. However, according to the Notice of Omitted Items, the application papers submitted did not include figures 7, 11 and 12.[1]

Petitioner renews the assertion that sheet 6 of 8 containing figures 11 and 12 were among the papers filed on October 26, 2001, and submits a "legible" postcard receipt in evidence thereof. The postcard receipt, identifies the application and acknowledges, inter alia, the number of drawing sheets to be 8 and bears a United States Patent and Trademark Office date-stamp of October 26, 2001. Further, the postcard receipt lacks any notation of non-receipt of any item listed.

In view of the foregoing, the petition is **Granted.**

Given the basis for granting the petition, no petition fee is due and therein, petitioner's deposit account no. 23-0925 will be credited in the amount of $260.00.[2]

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing, using the application papers received in the Office on October 26, 2001 and the one sheet of drawings (sheet 6 of 8) containing figures 11 and 12 submitted on petition April 17, 2002 and resubmitted October 1, 2002..

Telephone inquiries regarding 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

---

[1]In a decision dated August 5, 2002, the petition file April 17, 2002 was dismissed. That petition alleged that due to misnumbering, in fact there was no figure 7 and that sheet number 6 of 8 contained figures 11 and 12. The proof submitted on petition was not sufficient to satisfy the allegation and thus the petition was dismissed.

[2]Petitioners paid the petition fee of $130.00 upon the filing of the petition April 17, 2002 and upon the filing of the renewed petition, October 1, 2002.

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Alexandria, VA 22313-1450
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Group 3700

Paper No. 7

In re Application of
Ronald E. Gilbert *et al*
Application No. 10/047,198
Filed: October 26, 2001
Attorney Docket No. PY2-023

: DECISION ON PETITION

This is a decision on the petition filed on February 4, 2004 by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the Office letter dated May 7, 2003. The petition is being considered under 37 CFR 1.181, and no fee is required.

The petition is dismissed.

Petitioners allege that this application is not abandoned because petitioners did not receive the Office letter in question.

The Notice published at 1156 OG 53, as discussed in MPEP § 711.03(c), subsection entitled "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action", defines the minimum showing of fact that must accompany an allegation of nonreceipt of Office correspondence in support of an allegation that Office correspondence was not received. The Notice states:

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. **A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.** For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. (Emphasis added.)

The showing submitted by petitioner in support of the allegation of nonreceipt of the Office letter dated May 7, 2003 is not supported by a copy of the docket record as required by the Notice quoted above. Accordingly, there is presently no basis upon which to find that petitioners did not receive the Office letter in question. Therefore, the holding of abandonment cannot, at present, be withdrawn.

Petitioners may file a renewed petition, without fee, addressing the matters raised above. The renewed petition should be directed to Technology Center 3700 at the address in the letterhead above, with no mail stop specified. 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 stored as an abandoned file pending further action by petitioners.

PETITION DISMISSED.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

Wells St. John Roberts Gregory & Matkin P.S.
601 W. First Avenue
Suite 1300
Spokane, WA 99201-3828

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Mark W. Hendricksen
Wells St. John P.S.
601 W. First Avenue, Suite 1300
Spokane, WA 99201-3828

MAILED

AUG 02 2005

Director's Office
Group 3700

Serial No. 10/047,198

In re Application of
Ronald Gilbert et al.
Serial No. 10/047,198
Filed: October 26, 2001
For: MOLTEN METAL PUMP PARTICLE PASSAGE SYSTEM

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

Receipt is acknowledged of Petitioners' "Petition To Withdraw Holding of Abandonment – Office Action Not Received dated January 19, 2005. This petition requires no fee.

Petitioner alleges that he did not receive the Office action in question.

The Notice published at 1156 OG 53, as discussed in MPEP §711.03(c), subsection entitled "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action", defines the minimum showing of fact that must accompany an allegation of nonreceipt of Office correspondence in support of an allegation that Office correspondence was not received. The Notice states:

> "The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action."

The showing submitted by petitioner in support of the allegation of nonreceipt of the Office letter dated May 7, 2003 is sufficient.

This application has been restored to PENDING status. This application will be forwarded to the examiner for remailing of the Office letter.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-29-08

TO SPE OF : ART UNIT 2871

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/047216 Patent No.: 7253862

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.

Should Inventor be approved

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

Chris Hunt
Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] Approved — All changes apply.
- [ ] Approved In Part — Specify below which changes do not apply.
- [ ] Denied — State the reasons for denial below.

Comments: _____

SPE

2871
Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-29-08

TO SPE OF : ART UNIT 2871

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/047216 Patent No.: 7253862

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.

Should Inventors be approved

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Ennis Wang

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] Approved — All changes apply.
- [ ] Approved in Part — Specify below which changes do not apply.
- [ ] Denied — State the reasons for denial below.

Comments: _____

SPE

2871

Art Unit

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FULBRIGHT & JAWORSKI L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas 78701

In re Application of
Windsor et al.
Serial No. : 10/047,251
Filed : 14 January 2002
Attorney Dkt No. : TEXG:003USD1

Decision on Petition

This letter is in response to the Petition under 37 C.F.R. 1.144, filed on 12 October 2004, to request reconsideration of the restriction requirement. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that the application was filed on January 14, 2002 with claims 20, 21 and 25-50 pending. In a preliminary amendment dated May 8, 2002, applicants amended claims 20 and 32-50.

A requirement for restriction was mailed to applicants on March 31, 2004, requiring the restriction of the claims to one of twenty inventions under 35 U.S.C. 121. The claims were restricted as follows:

Groups I-XIX, Claims 20-21, 26, 28-31 and 51, respectively, drawn to methods of increasing drug resistance with compound I through XIX, respectively, classified in class 514, subclasses 365, 517, 603, 476, 359, 614, 476, 615, 510, 613, 555, 622, 457, 448, 518. Claims 32-50 were each grouped in Groups I-XIX, respectively. Group XX, claims 25 and 27, drawn to a method of increasing drug resistance by a) treating with an ectophosphatase inhibitor and b) down regulating the ABC transporter, classified in class 514, subclasses 424.

A requirement to elect a single disclosed species with respect to (a) cell type for the drug resistance, (b) organism for the ABC transporter, and (c) organism for the ectophophatase was also made.

In the paper filed on May 3, 2004, applicants elected with traverse to prosecute claims 20-21, 26, 28-31, 32 and 51, Group I. In response to the species election requirement, applicants elected without traverse (a) plant cells, (b) *Arabidopsis thaliana* AtPGP-1 and (c) *Pisum sativum* apyrase.

Applicants' traversal of the restriction requirement, on the basis that claim 20 generically links all of the pending claims and that this had not been acknowledged on the record was not found persuasive by the office and the restriction requirement was made final in a first office action on the merits, mailed June 7, 2004. In that office action, claims 25, 27 and 33-50 were

withdrawn from consideration, while claims 20, 21, 26 and 28-31 were rejected 35 USC 102(b) as anticipated by Pietkiewicz et al. Ujhazy et al. and Ujhazy et al. and claims 20, 21, 26 and 28-31 were rejected under 35 USC 102(e) as being anticipated by Thomas et al.

Applicants responded to the above first office action on the merits on October 12 2004, by amending claims 20, 26, 27 and canceling claims 21 and 28-31 and by traversing the previous rejections and by filing the instant petition in question.

DISCUSSION

Applicants' petition under 37 C.F.R. 1.144, on the basis that: **1.** the restriction requirement was not proper because the claims are generically linked by claim 20, **2.** the examiner has failed to state a basis for the restriction requirement and **3.** the restriction requirement is not permitted under M.P.E.P. 803.

Applicants are persuasive, with respect to applicants first traversed issue, that the restriction requirement was not proper because the claims are generically linked by claim 20 as discussed below.

> Claim 20. A method for decreasing drug resistance in a target plant cell comprising introducing to the cell a drug resistance-inhibiting amount of an ecto-phosphate inhibitory molecule.

Claim 20 is generic with respect to the type of molecule.

Claims 20 and 25-27 link(s) Inventions I through XIX. The restriction requirement among the linked inventions is subject to the nonallowance of the linking claim(s), claims 20 and 25-27. Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Applicants additionally petition under 37 C.F.R. 1.144, on the basis that the examiner has failed to state a basis for the restriction requirement, as applicants submit that a statement of conclusions is all that has been provided and that no basis has been provided for the propriety of the restriction. Applicants support for applicants instant conclusion references that "in the restriction requirement, it is merely concluded that claim 20 is not a linking claim because elements such as the nature of the inhibitor are not specified with particularity". As discussed above, claim 20 as well as claims 25-27 dependent there from link(s) inventions I through XIX and the restriction requirement among the linked inventions is subject to the nonallowance of the linking claim(s), claims 20 and 25-27.

As a result of the designation of claims 20 and 25-27 as linking claims, the previous restriction requirement is thus modified as per the following:

Groups I-XIX, claims 51 and 32-50, respectively, each drawn to a method for increasing drug resistance with compounds I-XIX, respectively.

It is noted that each of the nineteen claims 32-50 each correspond to a single Group I-XIX, respectively, and claim 51 from which claims 32-50 each depend, is grouped within all Groups I-XIX, as claim 51 is drawn to the claimed method for decreasing drug resistance in a plant cell comprising the use of a compound selected from the Formulae I through XIX.

Applicants' previous election of Group I, claims 32, and 51, classified in class 514, subclass 365, is acknowledged. It is further acknowledged that claims 20 and 25-27 link(s) inventions I through XIX. The restriction requirement among the linked inventions is subject to the non-allowance of the linking claim(s), claims 20 and 25-27.

It is further noted that claim 51, which lists each of the different compounds in the alternative, will be examined to the extent that it reads on the elected invention. Claim 51 is not eligible for election of species practice because the claim does not contain a substantial structural feature that links the different compounds. Linking claims 20 and 25-27 will be examined to the point of the determination of their non-patentability. Claim 32 will be examined fully.

Applicants finally petition under 37 C.F.R. 1.144, on the basis that the restriction requirement is not permitted under M.P.E.P. 803. Applicants submit that the MPEP 803 states that "[I]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." Applicants submit that a search and examination of all the current claims would not cause a serious burden to the examiner because the limitations forming the basis for the Restriction Requirement are all found in claims dependent upon claim 20 and that once this claim is searched and found allowable, there is no additional burden in searching the remaining claims because they are by definition novel and non-obvious. Thus applicants argue all of the claims can therefore be examined together with claim 20 without any additional burden.

This argument is not persuasive because claim 20 has not been identified as allowable over the prior art. For example Pietkiewicz et al. (1998) disclose that administering the ecto-5'-nucleotidase inhibitor a,b-methylene-adenosine 5'-diphosphate reduced the drug resistance of several human and murine MDR tumor cell lines to doxorubicin.

Applicants are correct that **if** the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions (803.02). Applicants' complete argument is acknowledged, however, found non-persuasive, because each of the groups I through XIX are drawn to a distinct methods of increasing drug resistance with distinct compounds (i.e. those distinct compounds of the formulae I through XIX). The members of the Markush group are not sufficiently few in number and are not so closely related that a search and examination of the entire application can be made without a serious burden. Searches of each of the different methods of using the compounds of the formulae I through XIX would involve the separate search of distinct structures not required for the search of other groups.

Additionally each of the compounds having the formulae I through XIX share no identifiable core structure that would help in the search of the methods of use of the distinct compounds.

Applicants' comments regarding the potential allowability of claims dependent from the linking claim, are appreciated although not helpful in supporting applicants' position regarding search burden. It is noted that in the previous first action on the merits, claim 20 (linking claim) was rejected as being anticipated under 102(b) by three different references and claim 20 was also rejected as being anticipated under 102(e) by at least a single reference. Thus the dependence of the claims on claim 20 does not relieve the necessary search burden associated with the search and examination of each of these claims. Linking claim practice requires rejoinder of non-elected inventions when the claims are in condition for allowance.

DECISION

For these reasons, the Petition under 37 C.F.R. 1.144 to petition the restriction requirement, is **GRANTED-in-PART**. As discussed above, the restriction requirement, while essentially correct, was incomplete for not indicating that the claims are generically linked by claim 20. The examiner should have identified the linking claim and made the record clear concerning linking claim practice (See MPEP 809). The petition of the restriction requirement on the basis that restriction is not permitted under M.P.E.P. 803 is not found persuasive. Absent an allowable linking claim, the restriction between Groups I-XIX stands.

Any request for consideration of this petition decision must be filed within two (2) months of the mailing date of this decision.

The application will be forwarded to the examiner for the appropriate action and consideration of applicants' response filed October 12, 2004. Should the linking claim become allowable, any claims dependent upon or containing all limitations of the linking claim would be considered for rejoinder.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-872-9306.

Bruce Kisliuk
Director, Technology Center 1600.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 6

Thomas R. Vigil
c/o Welsh & Katz, Ltd.
120 South Riverside Plaza
Chicago, IL 60606-3612

COPY MAILED

MAY 21 2003

OFFICE OF PETITIONS

In re Application of
John Innis
Application No. 10/047,271
Filed: January 15, 2002
Attorney Docket No. 8276-85048

DECISION ON PETITION

This is a decision on the Petition to Accord Original Filing Date to Subject Application, filed April 9, 2003, requesting the above-identified application be accorded the filing date of January 15, 2002, instead of the present filing date of March 12, 2002.

As previously stated in the Notice of Omitted Items in a Nonprovisional Application (hereinafter "Notice") of February 25, 2002, the above-identified application had been accorded a filing date of January 15, 2002. The record supports applicants' assertion that the United States Patent and Trademark Office erroneously changed the application filing date to March 12, 2002, the date Applicants' filed Figure 3. The Office sincerely apologizes for the error.

Accordingly, the petition is granted.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to January 15, 2002, and the mailing of a corrected filing receipt.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No.

PAUL W. GARBO
49 Lester Avenue
Freeport NY 11520

COPY MAILED
SEP 04 2008

In re Application of	:	
Santiago A. Olavarria	:	
Application No. 10/047,274	:	
Patent No. 6,740,348	:	DECISION ON PETITION
Filed: October 23, 2001	:	UNDER 37 C.F.R. § 1.378(B)
Issue Date: May 25, 2004	:	
Title: PRESS-FORMED GRAIN	:	
SNACKS AND PROCESS THEREFOR	:	

This is a decision on the petition filed June 6, 2008, pursuant to 37 C.F.R. § 1.378(b), to reinstate the above-identified patent.

This petition is **DISMISSED.**

The patent issued on May 25, 2004. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on May 25, 2008, with no payment received. Accordingly, the patent expired on May 25, 2008.

This petition has been filed by the Assignee of record. With the present petition, Petitioner has submitted **a portion of the**

3½-year maintenance fee, the surcharge associated with a petition to accept late payment of a maintenance fee as unavoidable, and a statement of facts.

Any petition to accept an unavoidably delayed payment of a maintenance fee filed under 37 C.F.R. §1.378(b) must include:

(1) the required maintenance fee set forth in 37 C.F.R. § 1.20 (e) through (g);

(2) the surcharge set forth in 37 C.F.R. § 1.20(i)(1), and;

(3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent - the showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

Maintenance Fee Requirement:

Petitioner has failed to submit the 3½-year maintenance fee in full ($450 was submitted towards the $465 that is required).

The maintenance fee which is due on the 3½ year anniversary of the issue date is presently set at $465 for a small entity.

The payment of both the surcharge and the 3½-year maintenance fee in full is a prerequisite to the filing of a petition to accept an unavoidably delayed payment of a maintenance fee in an expired patent. Therefore, consideration of the merits of the petition before receipt of the filing fee would be premature.

Conclusion

Any request for reconsideration of this decision must be filed within **TWO MONTHS** of the mailing date of this decision. Any such petition for reconsideration must be accompanied by the $400 petition fee set forth in §1.17(h). **AFTER DECISION ON THE PETITION FOR RECONSIDERATION, NO FURTHER RECONSIDERATION OR REVIEW OF THE MATTER WILL BE UNDERTAKEN BY THE COMMISSIONER.** Accordingly, on request for reconsideration, it is extremely

important that petitioner supply **any** and **all** relevant information and documentation in order to meet his burden of showing unavoidable delay. This includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them.

The renewed petition should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.378(b)". This is not a final agency action within the meaning of 5 U.S.C § 704.

On renewed petition, Petitioner will need to submit further payment, presently in the amount of $415:

- The fee that is associated with the 3½-year maintenance fee is presently set at $465 (set to increase to $490 on October 2, 2008), and Petitioner has submitted $450.
- The fee that is associated with the filing of a renewed petition pursuant to 37 C.F.R. § 1.378(b) is $400.

If on request for reconsideration, the delayed payment of the maintenance fee is not accepted, then the maintenance fee is subject to refund following the decision on the petition for reconsideration, or after the expiration of the time for filing such a petition for reconsideration, if none is filed.

Alternate Venue

Petitioner may also wish to consider filing a petition under the unintentional standard, 37 C.F.R. § 1.378(c). Petitioner should be made aware that the standard associated with a petition filed under this section is far less stringent than the standard associated with a delay asserted to be "unavoidable". As the requirements of 37 C.F.R. § 1.378(b) are more exacting than the corresponding requirements of 37 C.F.R. § 1.378(c), a petition under the former is significantly less likely to be grantable as filed than is a petition under the later. A blank form that can be used in filing a petition under 37 C.F.R. § 1.378(c) may be found here: http://www.uspto.gov/web/forms/sb0066.pdf.

Any response to this petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[1] hand-delivery,[2] or facsimile.[3]

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[4]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found here: http://www.uspto.gov/web/forms/sb0123.pdf.

Petitioner has requested that maintenance fee reminders be sent to his address. A blank fee address form for effectuating this request may be found here:
http://www.uspto.gov/web/forms/sb0047.pdf.

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2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

The general phone number for the Office of Petitions that should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[5]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: STEWART KRENTZMAN
569 FALETTI WAY
RIVER VALE, NEW JERSEY 07675

5 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).

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Paper No.

PAUL W. GARBO
49 Lester Avenue
Freeport NY 11520

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In re Application of	:	
Santiago A. Olavarria	:	
Application No. 10/047,274	:	
Patent No. 6/740,348	:	
Filed: October 23, 2001	:	REQUEST FOR MORE INFORMATION
Issue Date: May 25, 2004	:	
Title: PRESS-FORMED GRAIN	:	
SNACKS AND PROCESS THEREFOR	:	

This is a decision on the letter that was received on September 23, 2008, which is being treated as a renewed petition pursuant to 37 C.F.R. §1.378(e), requesting reconsideration of a prior decision pursuant to 37 C.F.R. §1.378(b), which refused to accept the delayed payment of maintenance fees for the above-referenced patent

The patent issued on May 25, 2004. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on May 25, 2008, with no payment received. Accordingly, the patent expired on May 25, 2008.

An original petition pursuant to 37 C.F.R. § 1.378(b) was filed on June 6, 2008 by the Assignee of record. Petitioner submitted a portion of the 3½-year maintenance fee, the surcharge associated with a petition to accept late payment of a maintenance fee as unavoidable, and a statement of facts.

The petition was dismissed via the mailing of a decision on September 4, 2008, which indicated that Petitioner included the surcharge that is associated with the filing of the petition, and a portion of the maintenance fee ($450 was included when $465 was due).

Any petition to accept an unavoidably delayed payment of a maintenance fee filed under 37 C.F.R. § 1.378(b) must include:

(1) the required maintenance fee set forth in 37 C.F.R. § 1.20 (e) through (g);

(2) the surcharge set forth in 37 C.F.R. § 1.20(i)(1); and;

(3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent - the showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

With this renewed petition, Petitioner has submitted the $15 deficiency towards the maintenance fee, along with the $400 that is required for the filing of a petition pursuant to 37 C.F.R. 1.378(e).

Therefore, to date, Petitioner has submitted the $465 maintenance fee, the $700 surcharge, and the $400 fee that is associated with the filing of this renewed petition.

Petitioner has met the first and second requirements set forth in 37 C.F.R. § 1.378(b). Petitioner's explanation of the delay has been considered, and it has been determined that it fails to meet the standard for acceptance of a late payment of the maintenance fee and surcharge, as set by 35 U.S.C. 41(c) and 37 C.F.R. § 1.378(b)(3). A discussion of the third requirement follows.

The standard

35 U.S.C. §41(c)(1) indicates that the Director may accept the payment of any maintenance fee after the six-month grace period if the delay[1] is shown to the satisfaction of the Director to have been unavoidable.

§1.378(b)(3) is at issue in this case. Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 37 C.F.R. §1.137(a). This is a very stringent standard. 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.[2]

In addition, decisions are made on a "case-by-case basis, taking all the facts and circumstances into account." Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[3]

An adequate showing that the delay in payment of the maintenance fee at issue was unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 C.F.R. § 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. 41(c) and 37 C.F.R. § 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 C.F.R. § 1.378(b).

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1 This delay includes the entire period between the due date for the fee and the filing of a grantable petition pursuant to 37 C.F.R. § 1.378(b).
2 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).
3 Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

The burden of showing the cause of the delay is on the person seeking to revive the application.[4]

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 either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action.[5]

Portions of the Code of Federal Regulations and MPEP that are relevant to the abandonment of this application

37 C.F.R. § 1.362 sets forth, *in toto*:

(a) Maintenance fees as set forth in §§ 1.20(e) through (g) are required to be paid in all patents based on applications filed on or after December 12, 1980, except as noted in paragraph (b) of this section, to maintain a patent in force beyond 4, 8 and 12 years after the date of grant.
(b) Maintenance fees are not required for any plant patents or for any design patents. Maintenance fees are not required for a reissue patent if the patent being reissued did not require maintenance fees.
(c) The application filing dates for purposes of payment of maintenance fees are as follows:
(1) For an application not claiming benefit of an earlier application, the actual United States filing date of the application.
(2) For an application claiming benefit of an earlier foreign application under 35 U.S.C. 119, the United States filing date of the application.
(3) For a continuing (continuation, division, continuation-in-part) application claiming the benefit of a prior patent application under 35 U.S.C. 120, the actual United States filing date of the continuing application.
(4) For a reissue application, including a continuing reissue application claiming the benefit of a reissue application under 35 U.S.C. 120, the United States filing date of the original non-reissue application on which the patent reissued is based.
(5) For an international application which has entered the United States as a Designated Office under 35 U.S.C. 371, the international filing date granted under Article 11(1) of the Patent Cooperation Treaty which is considered to be the United States filing date under 35 U.S.C. 363.
(d) Maintenance fees may be paid in patents without surcharge during the periods extending respectively from:
(1) 3 years through 3 years and 6 months after grant for the first maintenance fee,
(2) 7 years through 7 years and 6 months after grant for the second maintenance fee, and
(3) 11 years through 11 years and 6 months after grant for the third maintenance fee.
(e) Maintenance fees may be paid with the surcharge set forth in § 1.20(h) during the respective grace periods after:

---

4 Id.
5 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

(1) 3 years and 6 months and through the day of the 4th anniversary of the grant for the first maintenance fee.
(2) 7 years and 6 months and through the day of the 8th anniversary of the grant for the second maintenance fee, and
(3) 11 years and 6 months and through the day of the 12th anniversary of the grant for the third maintenance fee.
(f) If the last day for paying a maintenance fee without surcharge set forth in paragraph (d) of this section, or the last day for paying a maintenance fee with surcharge set forth in paragraph (e) of this section, falls on a Saturday, Sunday, or a federal holiday within the District of Columbia, the maintenance fee and any necessary surcharge may be paid under paragraph (d) or paragraph (e) respectively on the next succeeding day which is not a Saturday, Sunday, or Federal holiday.
(g) Unless the maintenance fee and any applicable surcharge is paid within the time periods set forth in paragraphs (d), (e) or (f) of this section, the patent will expire as of the end of the grace period set forth in paragraph (e) of this section. A patent which expires for the failure to pay the maintenance fee will expire at the end of the same date (anniversary date) the patent was granted in the 4th, 8th, or 12th year after grant.
(h) The periods specified in §§1.362 (d) and (e) with respect to a reissue application, including a continuing reissue application thereof, are counted from the date of grant of the original non-reissue application on which the reissued patent is based.

[49 FR 34724, Aug. 31, 1984, added effective Nov. 1, 1984; paras. (a) and (e), 56 FR 65142, Dec. 13, 1991, effective Dec. 16, 1991; paras. (c)(4) and (e) revised and para. (h) added, 58 FR 54504, Oct. 22, 1993, effective Jan. 3, 1994]

MPEP 2515 Information Required for Submission of Maintenance Fee Payment states, *in pertinent part*:

If a patent expires because the maintenance fee and any necessary surcharge have not been paid in the manner required by 37 C.F.R. 1.366, the patentee could proceed under 37 C.F.R. 1.378 (see MPEP § 2590), if appropriate, or could file a petition under 37 C.F.R. 1.377 (see MPEP § 2580) within the period set therein seeking to have the maintenance fee accepted as timely even though not all of the required identifying data was present prior to expiration of the grace period.

MPEP 2575 sets forth, *in pertinent part*:

Under the statutes and the regulations, the Office has no duty to notify patentees when their maintenance fees are due. It is the responsibility of the patentee to ensure that the maintenance fees are paid to prevent expiration of the patent. The Office will, however, provide some notices as reminders that maintenance fees are due, but the notices, errors in the notices or in their delivery, or the lack or tardiness of notices will in no way relieve a patentee from the responsibility to make timely payment of each maintenance fee to prevent the patent from expiring by operation of law. The notices provided by the Office are courtesies in nature and intended to aid patentees. The Office's provision of notices in no way shifts the burden of

monitoring the time for paying maintenance fees on patents from the patentee to the Office.

Application of the standard to the current facts and circumstances

With the original petition, Petitioner has submitted a statement of facts where he asserted that the attorney who prosecuted this application, Mr. Garbo, "passed away about three years ago." Mr. Garbo's daughter, who lived with her father, forwarded all mail to Petitioner. Petitioner was unaware that the daughter subsequently sold the home and ceased forwarding any mail to Petitioner, although the original petition is silent as to both when this sale took place, when the daughter ceased forwarding mail to Petitioner, and when Petitioner learned of these two developments.

The period for paying the 3½-year maintenance fee without the surcharge extended from May 25, 2007 to November 25, 2007 and for paying with the surcharge from November 26, 2007 to May 25, 2008. Thus, the delay in paying the 3½-year maintenance fee extended from May 25, 2008 at midnight to the filing of the original petition on June 6, 2008.

It appears that the petition was filed promptly after the patentee became aware of the expiration of the patent, however Petitioner has failed to establish that the entire period of delay was unavoidable.

First, Petitioner has established that he had actual knowledge that the attorney who prosecuted this application had passed on, and he relied on the attorney's daughter to forward all mail to him. It does not appear that Petitioner retained alternate counsel[6] or contracted with any alternate business entity to track the due dates for the maintenance fees. As such, **the record does not support a finding that Petitioner instituted steps to ensure timely payment of the maintenance fee.** As set forth above, where the record fails to disclose that a patentee took reasonable steps to ensure timely payment of the maintenance fee, 35 U.S.C. § 41(c) and 37 C.F.R. § 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 C.F.R. § 1.378(b).

6 It is not clear if the deceased attorney represented Petitioner.

Secondly, it has not been shown that **reasonable care** was taken to ensure that the maintenance fee would be paid timely. The deceased attorney's address was and is the official address of record. A reasonable man, acting in relation to his most important business, would have at the very least changed the correspondence address of record upon learning that the attorney had died. Instead, Petitioner relied on having mailings forwarded to him in perpetuity.

Third, it is noted in passing that Petitioner appears to have expected to receive a maintenance fee reminder from the Office. As noted above, Petitioner has stated that he relied on the daughter of the deceased to forward any mail to him. This statement is being construed to mean that he relied on her to forward the maintenance fee reminder statements that are mailed by the Office, since it does not appear that there are any other mailings which Petitioner could be referring to that would be relevant to the failure to timely submit the maintenance fee.

As such, it appears that the reason that Petitioner did not have any steps in place for monitoring the timely payment of the maintenance fees for this patent is because he instead relied on the Office to provide notice of the same.

As set forth in MPEP § 2575, reproduced above, the Office mails these notices as a courtesy, and has no duty to notify patentees when their maintenance fees are due. It is the responsibility of the Patentee to ensure that the maintenance fees are timely submitted, and the lack of a notice will not relieve a patentee from his responsibility to ensure that the maintenance fees are paid in a timely manner. As such, **the failure of a patentee or his/her representative to receive a reminder notice cannot establish that the failure to timely submit the maintenance fee was unavoidable.**

Conclusion

Any response to this inquiry must be filed within **ONE MONTH** of the mailing date of this communication. **This time period is not extendable.** After decision on the petition for reconsideration and the response to this inquiry, no further reconsideration or review of the matter will be undertaken by the Commissioner. Accordingly, on request for reconsideration, it is extremely important that petitioner supply **any** and **all** relevant information and documentation in order to meet his burden of

showing unavoidable delay. This includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. Petitioner must provide documentation and address the deficiencies noted above.
If on response to this inquiry, the delayed payment of the maintenance fee is not accepted, then the maintenance fee is subject to refund following the decision on the petition for reconsideration, or after the expiration of the time for responding to this inquiry, if none is filed.

Alternate Venue

Petitioner may also wish to consider filing a petition under the unintentional standard, 37 C.F.R. § 1.378(c). Petitioner should be made aware that the standard associated with a petition filed under this section is far less stringent than the standard associated with a delay asserted to be "unavoidable". As the requirements of 37 C.F.R. § 1.378(b) are more exacting than the corresponding requirements of 37 C.F.R. § 1.378(c), a petition under the former is significantly less likely to be grantable as filed than is a petition under the later. A blank form that can be used in filing a petition under 37 C.F.R. § 1.378(c) may be found here: http://www.uspto.gov/web/forms/sb0066.pdf.

Petitioner will note that a third option is to concurrently file both a response to this inquiry and a petition pursuant to Rule 1.378(c). If the lesser expensive petition is granted, the fee that is associated with the more expensive petition will be refunded to Petitioner.

Any response to this inquiry should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[7] hand-delivery,[8] or facsimile.[9] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[10]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything

7 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
8 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
9 (571) 273-8300- please note this is a central facsimile number.
10 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

else to the address will delay the delivery of the response to the undersigned.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found here: http://www.uspto.gov/web/forms/sb0123.pdf.

The general phone number for the Office of Petitions that should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[11]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: STEWART KRENTZMAN
569 FALETTI WAY
RIVER VALE, NEW JERSEY 07675

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11 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
www.uspto.gov

Paper No.

STEWART KRENTZMAN
569 FALETTI WAY
RIVER VALE NJ 07675

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FEB 09 2009

OFFICE OF PETITIONS

In re Application of	:	
Santiago A. Olavarria	:	
Application No. 10/047,274	:	DECISION ON RENEWED PETITION
Patent No. 6/740,348	:	PURSUANT TO 37 C.F.R.
Filed: October 23, 2001	:	§ 1.378(E) AND PETITION
Issue Date: May 25, 2004	:	PURSUANT TO 37 C.F.R.
Title: PRESS-FORMED GRAIN	:	§ 1.378(C)
SNACKS AND PROCESS THEREFOR	:	

This is a decision on the petition filed on September 23, 2008, pursuant to 37 C.F.R. § 1.378(e). This is also a decision on the petition filed on December 24, 2008, pursuant to 37 C.F.R. § 1.378(c).

The petition pursuant to 37 C.F.R. § 1.378(c) is **GRANTED**. In light of this, the renewed petition pursuant to 37 C.F.R. § 1.378(e) is **DISMISSED AS MOOT**.

The concurrently submitted Change of Correspondence Address has been entered and made of record. Petitioner will note that the Fee Address has not been changed. **Petitioner will not receive future correspondence related to maintenance fees unless a Fee Address Indication Form (PTO/SB/47) is submitted for this patent**. For Petitioner's convenience, a blank Fee Address

Indication Form (PTO/SB/47) may be found at http://www.uspto.gov/web/forms/sb0047.pdf.[1]

Background and Procedural History

The patent issued on May 25, 2004. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on May 25, 2008, with no payment received. Accordingly, the patent expired on May 25, 2008.

An original petition pursuant to 37 C.F.R. § 1.378(b) was filed on June 6, 2008 by the Assignee of record. Petitioner submitted a portion of the 3½-year maintenance fee, the surcharge associated with a petition to accept late payment of a maintenance fee as unavoidable, and a statement of facts.

The original petition pursuant to 37 C.F.R. § 1.378(b) was dismissed via the mailing of a decision on September 4, 2008, which indicated that Petitioner included the surcharge that is associated with the filing of the petition, along with a portion of the maintenance fee ($450 was included when $465 was due).

A renewed petition pursuant to 37 C.F.R. § 1.378(e) was filed on September 23, 2008, along with, *inter alia*, the remainder of the maintenance fee. A Request for More Information was mailed on December 15, 2008.

Analysis of the Petition Pursuant to 37 C.F.R. § 1.378(c)

A grantable petition pursuant to 37 C.F.R. § 1.378(c) must be accompanied by:

(1) The maintenance fee as set forth in 37 C.F.R. §§ 1.362(e) and 1.20;
(2) The surcharge for accepting a maintenance fee after expiration of a patent for non-timely payment of a maintenance fee, as set forth in 37 C.F.R. § 1.20;
(3) A statement that the delay was unintentional from a proper party in interest, and;
(4) The petition must be filed within 24 months of the

1 In order to effectuate a change in the fee address, a customer number may be required. If Petitioner needs to obtain a customer number, one may be obtained by the submission of PTO form PTO/SB/125A, which may be located at http://www.uspto.gov/web/forms/sb0125.pdf.

date of expiration.

Petitioner has submitted the surcharge associated with a petition to accept late payment of a maintenance fee as unintentional, the 3½-year maintenance fee, and a statement that the delay in payment of the maintenance fee was unintentional. This petition was timely filed within twenty-four months after the expiration of the six-month grace period.

Petitioner has met each of the requirements of Rule 1.378(c).

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

The surcharge that is associated with the filing of the petition pursuant to 37 C.F.R. § 1.378(b) will be refunded to Petitioner via the mailing of a Treasury Check in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[2] Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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MAY 05 2003

OFFICE OF PETITIONS

In re Application of :
Erland Wittkotter : DECISION ON PETITION
Application No. 10/047,275 : UNDER 37 CFR 1.78(a)(3)
Filed: 15 January, 2002 :
For: DATA PROCESSING APPLIANCE :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 20 February, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed PCT Application No. PCT/EP00/06824, filed on 17 July, 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 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) of the prior-filed application, unless previously submitted;[1]
>
> **(2)** the surcharge set forth in § 1.17(t); and
>
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the date the claim was filed was unintentional. The Commissioner may require

[1]Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate. (*see* § 1.14).

additional information where there is a question whether the delay was unintentional.

The present pending application was filed on 15 January, 2002, and was copending with the above-noted, prior-filed international application, at the time of filing, for which priority is claimed. A reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, which was filed concurrently with the present petition under 37 CFR 1.78(a)(3).

The present nonprovisional application was filed after 29 November, 2000, and the claim for priority herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2). Also, the reference to the prior-filed nonprovisional was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the present petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120, the petition to accept an unintentionally delayed claim to benefit to prior-filed Application No. PCT/EP00/06824 is granted as of the date of filing the petition.

A review of Office PALM records indicates that the priority claim has been previously entered in Office records.

Receipt of the power of attorney and change of correspondence address filed on 4 February, 2003, is acknowledged.

The application is being forwarded to Technology Center 2100 for processing the amendment filed on 20 February, 2003, and for consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(3) for the benefit of the above-noted, prior filed nonprovisional application.

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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Paper No. 6

ERIC K. MANNING
206 W. TENTH STREET
DALLAS, TX 75208

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MAR 2 9 2004

OFFICE OF PETITIONS

In re Application of
Manning
Application No. 10/047,303
Filed: January 14, 2002
For: CONDOM INSERT

ON PETITION

This decision concerns the December 29, 2003 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on July 30, 2002 for failure to timely submit the application basic filing fee, the extra claims fee, and the surcharge for late filing of an acceptable oath or declaration, as required by the May 29, 2002 "Notice of Incomplete Reply (Nonprovisional)."

A grantable petition under 37 CFR 1.137(b), in the instant case, must be accompanied by: (1) the fees noted above; (2) the $665 petition fee (small entity); and (3) a statement that the entire delay in filing these items from the due date until the filing of a grantable §1.137(b) petition was unintentional.

The instant petition meets the above requirements and is thus granted. The application is now complete.

The file is being forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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Paper No.

K&L Gates LLP
P.O. Box 1135
CHICAGO IL 60690

MAILED

MAY 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Yang et al.	:	
Application No. 10/047,352	:	ON APPLICATION FOR
Filed: January 14, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 0109015/024	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) and 37 C.F.R. §§1.702 - 1.705 filed March 16, 2009. Applicants submit that the application is entitled to an additional 490 days of patent term adjustment, which would increase the patent term adjustment from 200 days at the time of the mailing of the notice of allowance to 690 days. Citing Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was first filed in this application on May 19, 2006.

The determination of the patent term adjustment at the time of the mailing of the notice of allowance remains two hundred (200) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of 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 and is not consumed by the filing of a request for continued examination).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PALM INTRANET

Day : Tuesday
Date: 5/5/2009
Time: 19:56:04

PTA Calculations for Application: 10/047352			
Application Filing Date:	01/14/2002	PTO Delay (PTO):	756
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	556
Post-Issue Petitions:	0	Total PTA (days):	200
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
85	01/13/2009	MAIL NOTICE OF ALLOWANCE	184		59
84	01/09/2009	ISSUE REVISION COMPLETED			
83	01/09/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
82	01/09/2009	CASE DOCKETED TO EXAMINER IN GAU			
81	12/16/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
80	12/16/2008	DOCUMENT VERIFICATION			
79	12/08/2008	NOTICE OF ALLOWABILITY			
73	10/14/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
72	10/14/2008	REFERENCE CAPTURE ON IDS			
71	10/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		215	59
70	10/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
69	10/16/2008	DATE FORWARDED TO EXAMINER			
68	09/29/2008	SUPPLEMENTAL RESPONSE			
67	08/22/2008	DATE FORWARDED TO EXAMINER			
66	07/28/2008	SUPPLEMENTAL RESPONSE			
65	08/06/2008	DATE FORWARDED TO EXAMINER			
64	07/28/2008	SUPPLEMENTAL RESPONSE			
63	02/01/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
62	06/09/2008	DATE FORWARDED TO EXAMINER			
61	06/06/2008	SUPPLEMENTAL RESPONSE			
60	04/07/2008	DATE FORWARDED TO EXAMINER			
59	03/13/2008	RESPONSE AFTER NON-FINAL ACTION			

58	02/01/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
57	08/26/2003	CLAIMS PTO			
56	02/01/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	12/13/2007	MAIL NON-FINAL REJECTION			
54	12/10/2007	NON-FINAL REJECTION			
53	08/24/2007	DATE FORWARDED TO EXAMINER			
52	08/21/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
51	08/24/2007	DATE FORWARDED TO EXAMINER			
50	08/21/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		32	42
49	08/24/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
48	08/21/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
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Chicago, IL 60690

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In re Patent No. 7,544,511	:
Yang et al.	: DECISION UPON REMAND AND
Issue Date: June 9, 2009	: RECONSIDERATION OF
Application No. 10/047,352	: PATENT TERM ADJUSTMENT
Filed: Jan. 14, 2002	: AND NOTICE OF INTENT
Attorney Docket No. 3708869-00024	: TO ISSUE CERTIFICATE OF CORRECTION
Title: STABLE NEURAL STEM CELL LINE METHODS	:

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by six hundred and eighty nine (689) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by six hundred and eighty nine (689) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney

Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,544,511 B2

DATED : **June 9, 2009** **DRAFT**

INVENTOR(S) : Yang 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 200 days

Delete the phrase "by 200 days" and insert – by 689 days--

Day : Wednesday

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Date: 3/17/2010
Time: 14:24:53

PTA Calculations for Application: 10/047352			
Application Filing Date:	01/14/2002	PTO Delay (PTO):	756
Issue Date of Patent:	06/09/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	556
Post-Issue Petitions:	0	Total PTA (days):	689
PTO Delay Adjustment:	489		

File Contents History

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Date: 3/17/2010
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Issue Date of Patent:	06/09/2009	Three Years:	0
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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JUN 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Taka Migimatsu	:	
Application No. 10/047,374	:	DECISION ON REQUEST
Filed: January 14, 2002	:	TO WITHDRAW
Attorney Docket No. 017991-000211US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed January 24, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Richard T. Ogawa and all the other attorneys/agents of record was revoked by the applicant of the patent application on March 24, 2006. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

There is an outstanding Office action mailed May 5, 2006 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to Sherry D. Brinkley at 571-272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: BA

cc: ZYTEK COMMUNICATIONS CORPORATION
ONE MARKET STREET, SPEAR TOWER
SUITE 3600
SAN FRANCISCO CA 94105

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FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO IL 60610-4764

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OFFICE OF PETITIONS

In re Application of
Ian Barry Anthony Parr
Application No. 10/047,381
Filed: January 14, 2002
Attorney Docket No. 025866/0102

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 November 30, 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, "attorney change of law firms", 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 February 23, 2007 that requires a response by the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: PAUL E SCHAAFSMA
NOVUSIP, LLC
521 WEST SUPERIOR STREET
SUITE 221
CHICAGO, IL 60610-3135

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JUL 14 2004

Paper No. 9

In re Application of
Donn E. Albert
Application No. 10/047,390
Filed: January 16, 2002
Attorney Docket No. DEA-C-1

: DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on June 16, 2004 by which petitioner requests withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the Office action dated September 18, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that the application is not abandoned because a reply to the Office letter in question was not filed due to the fact that the Office letter was not received. Petitioner has supported this allegation in a manner which satisfies the requirements of the Notice published at 1156 OG 53 which establishes the minimum requirements for an evidentiary showing in support of an allegation of nonreceipt of Office correspondence. See also MPEP § 711.03(c), subsection A, entitled "Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action", (8th Edition, Rev. 2, May 2004). Based upon this evidence, 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 to re-mail paper No. 6, including all attachments and copies of references, if any. Thereafter, the application will be forwarded to the examiner for appropriate.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Henry W. Cummings
3313 W. Adams St.
St. Charles, MO 63301

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Appl. No.: **10/047407**

Filed: **January 10, 2002**

For: Correction of Inventorship Under 37 CFR 1.48

This is a decision on the request under 37 CFR 1.48 filed **January 10, 2007**. A review of the application history and the evidence provided by petitioner has been completed. It appearing that inventor Eleston Maxie, Jr. was unintentionally omitted as an inventor, as such the evidence is foud convincing.

The petition is granted.

PATRICK JOSEPH RYAN

Supervisory Patent Examiner,

ART UNIT 1745

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. 19

MERCHANT & GOULD PC
P O BOX 2903
MINNEAPOLIS, MN 55402-0903

COPY MAILED
MAY 1 9 2004
OFFICE OF PETITIONS

In re Application of
Tod Michael et al
Application No. 10/047,422
Filed: January 14, 2002
Attorney Docket No. 10646.345US01

DECISION GRANTING PETITION
UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed May 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 April 9, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 367 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Supplemental Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 20

Date : May 19, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 10/047,422**

Applicant(s) : Tod Michael et al
Application No. : 10/047,422
Filed : January 14, 2002

The above-identified application has been assigned Patent No. 6,739,407 and an issue date of May 25, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 25, 2004:

"All reference to Patent No. 6,739,407 to Tod Michael et al of Iowa for SONDE HOUSING AND METHOD OF MANUFACTURE appearing in the Official Gazette of May 25, 2004 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

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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DUANE MORRIS, LLP
IP Department
30 South 17th Street
Philadelphia, PA 19103-4196

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OFFICE OF PETITIONS

In re Application of	:	
Thaddeus Marshall	:	
Application No. 10/047,426	:	DECISION ON PETITION
Filed: January 14, 2002	:	TO WITHDRAW
Attorney Docket No. D6163-00012	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 27, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

All attorneys/agents have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Thaddeus Marshall at the address indicated below.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Thaddeus Marshall
7 Clover Leaf Court
Medford, NJ 08055

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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BANNER & WITCOFF
28 STATE STREET
28TH FLOOR
BOSTON, MA 02109-9601

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MAY 2 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Jeroen Mattijs Bezemer et al	:	
Application No. 10/047,427	:	NOTICE
Filed: January 15, 2002	:	
Attorney Docket No. 04148-00022	:	

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 referred to Files Repository.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of

COPPERMAN, Max
Application No. 10/047,446
Filed: January 14, 2002
Attorney Docket No. **1546.015US1**

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 October 23, 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 Suneel Arora on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MAX COPPERMAN**
233 SUNSET AVENUE
SANTA CRUZ, CA 95060

cc: **DOREEN J. GRIDLEY**
ICE MILLER LLP
ONE AMERICAN SQUARE
SUITE 3100
INDIANAPOLIS, IN 46282-0200

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

BANNER & WITCOFF, LTD.
28 STATE STREET
28th FLOOR
BOSTON MA 02109

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APR 0 7 2003

OFFICE OF PETITIONS

In re Application of	:	
Alois Johannes G. Aarts, Jurgen Johannes A. Broekman, Jan Maria J. Thewissen, and Geert Dijkstra	:	
Application No. 10/047,449	:	DECISION ON PETITION
Filed: January 14, 2002	:	
Attorney Docket No. 05032-00014	:	
Title: PREPARATION OF SATIN WHITE	:	

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed September 16, 2002.

On January 14, 2002, the application was deposited, identifying Alois Johannes G. Aarts, Jurgen Johannes A. Broekman, Jan Maria J. Thewissen, and Geert Dijkstra as joint inventors. The application was deposited without an oath or declaration. On February 14, 2002, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that an executed oath or declaration, a surcharge of $130.00, and the basic filing fee were required. This Notice set a two-month period for reply.

With the instant petition, the petitioner has included the basic filing fee, the filing fee for the petition, the $130.00 surcharge, a five month extension of time to make timely this reply[2], a declaration executed by each inventor save Inventor Dijkstra, a declaration of facts of one

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

2 September 14, 2002, and September 15, 2002, fell on a weekend.

Michael Severijn, a statement of facts executed by an attorney of record, and a declaration of facts executed by one Paul Steinhauser.

Petitioner has met requirements (1), (2), (3), and (4) of 37 C.F.R. §1.47(a) above.

Regarding the fifth requirement above, it has not been set forth that the non-signing inventor refused to sign the declaration. Although the declaration of facts executed by Mr. Severijn indicates that a complete copy of the application and the declaration and assignment were sent to the last known-address of the non-signing inventor, it does not state the result. The statement of facts set forth by the attorney of record characterizes the affidavit of Mr. Steinhauser as "evidencing that Geert Dijkstra has refusd to execute the declaration and the reasons therefore[3]", but this statement is unsupported, as nowhere in this statement of fact is the non-signing inventor's refusal addressed. As such, it is not clear how the attorney of record came to this opinion.

Regarding the sixth requirement, petitioner has not submitted a declaration which complies with 37 CFR §1.63, for the following two reasons. First, the declaration submitted with the instant petition contains a non-initialed and non-dated changes by an unknown party[4]. Secondly, the alteration is in blue ink (it appears to be from the same pen used by the three signing inventors), and consists of a large "X" through the signature block of the non-signing inventor. This indicates that at least one of the three signing inventors did not consider the non-signing inventor to have contributed to the inventive process. As such, at least one of the signing inventors did not sign on behalf of himself/herself/themselves and on behalf of the non-signing joint inventor, as is required by MPEP 409.03(a). Furthermore, as MPEP 409.03(a)(A) requires the non-signing inventors to indicate that they are signing on behalf of the non-signing inventor by leaving the signature block of the later blank; this "X" makes it very clear that at least one of the non-signing inventors had no intention of signing on behalf of the non-signing inventor.

Consequently, 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)."

The reply to this letter may be submitted by mail[5,6], hand-delivery[7], or facsimile[8].

The application file will be retained in the Office of Petitions for two (2) months.

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3 The attorney of record's statement of facts, paragraph number 3.
4 See 37 C.F.R. §1.52(c)(1).
5 Commissioner for Patents, Box DAC, Washington, DC 20231.
6 **Note: as of May 1, 2003, the mailing address for addressing correspondence to the Office will change to: United States Patent and Trademark Office, PO Box 1450, Alexandria, VA, 22313-1450.**
7 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.
8 (703) 308-6916, Attn: Office of Petitions.

Telephone inquiries concerning *this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

#7

OIPE JC67
OCT 07 2003
PATENT & TRADEMARK OFFICE

PATENT
ATTORNEY DOCKET NO. 05032-00014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Alois Johannes Gerardus Aarts,	)	Examiner:
Jürgen Johannes Adrianus Broekman,	)	
Jan Maria Joseph Thewissen, and	)	
Geert Dijkstra	)	Art Unit:
	)	1723
Serial No.: 10/047,449	)	
	)	
Filed: January 14, 2002	)	
	)	
Title: PREPARATION OF SATIN WHITE	)	

Commissioner for Patents
Office of Petitions
P.O. Box 1450
Alexandria, VA 22313-1450

RENEWED PETITION UNDER 37 CFR 1.47(A)

This is in responsive to the Decision on Petition mailed February April 7, 2003 (Paper No. 6), a copy of which is enclosed, dismissing applicants' petition to begin prosecution of the application without the declaration signature of Geert Dijkstra.

Applicants' Petition was denied because the Declaration of Michael Severijn did not state that Geert Dijkstra refused to sign the declaration. In response, applicants are filing herewith the Supplemental Declaration of Michael Severijn in which he states that he personally spoke with Geert Dijkstra and confirmed that Geert Dijkstra did receive the application materials, that Geert Dijkstra was asked to sign the declaration and that Geert Dijkstra refused to sign the declaration.

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OFFICE OF PETITIONS

The Petition was also denied because the originally submitted declaration contained (1) non-initialed and non-dated changes by an unknown party, and (2) included a "X" through the signature block of the non-signing inventor which was interpreted by the Office of Petitions as the signing inventors not signing on behalf of the non-signing inventor. In response, applicants are filing herewith a substitute declaration which meets the requirements of 37 CFR § 1.63.

Accordingly, in view of the newly submitted Supplemental Declaration of Michael Severijn and the newly executed declaration, applicants' respectfully renew their petition to begin prosecution of the present application. To the extent any fees are required, please apply any charges or any credits to Deposit Account No. 19-0733.

Respectfully submitted,

Date: October 7, 2003

John P. Iwanicki, Reg. No. 34,628
Banner & Witcoff, Ltd.
28 State Street, 28th Floor
Boston, MA 02109
(617) 720-9600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 10

BANNER & WITCOFF, LTD.
28 STATE STREET
28th FLOOR
BOSTON MA 02109

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OFFICE OF PETITIONS

In re Application of	:	
Alois Johannes G. Aarts, Jurgen Johannes A.	:	
Broekman, Jan Maria J. Thewissen, and Geert	:	
Dijkstra	:	
Application No. 10/047,449	:	DECISION ON PETITION
Filed: January 14, 2002	:	
Attorney Docket No. 05032-00014	:	
Title: PREPARATION OF SATIN WHITE	:	

This is in response to the Renewed Petition under 37 CFR 1.47(a), filed on October 7, 2003, in response to a decision on petition mailed April 7, 2003, which dismissed the original petition (filed on September 16, 2002).

With the Renewed petition, the petitioner has included a supplemental declaration and a newly executed declaration, executed by three of the four joint inventors. Both submissions fully address and correct the deficiencies indicated in the decision mailed April 7, 2003. Petitioner has also submitted a four-month extension of time to make timely this response.

As such, the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 1700 for further processing.

Telephone inquiries regarding this decision should be directed to 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
WWW.USPTO.GOV

Geert Dijkstra
Bellefleur 9
2771 PG Boskoop
NETHERLANDS

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NOV 1 3 2003

OFFICE OF PETITIONS

In re Application of
Alois Johannes G. Aarts, Jurgen Johannes A.
Broekman, Jan Maria J. Thewissen, and Geert Dijkstra

Application No. 10/047,449
Filed: January 14, 2002
Attorney Docket No. 05032-00014
Title: PREPARATION OF SATIN WHITE

LETTER

Dear Mr. Dijkstra:

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 the undersigned 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

BANNER & WITCOFF, LTD.
28 STATE STREET
28th FLOOR
BOSTON MA 02109

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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TOWNSEND AND TOWNSEND AND CREW,
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:	
Victor B. Kley	:	
Application No. 10/047,454	:	ON PETITION
Filed: January 14, 2002	:	
Attorney Docket No. 020921-001110US	:	

This is a decision on the petition, filed April 7, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 30, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2878 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : April 14, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

COPY MAILED
APR 14 2006
OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Victor B. Kley
Application No. :10/047,454
Filed :January 14, 2002

The above-identified application has been assigned Patent No. 7,030,369 and an issue date of April 18, 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 April 18, 2006:

> "All reference to Patent No. 7,030,369 to Victor B. Kley of California for SCANNING PROBE MICROSCOPE ASSEMBLY appearing in the Official Gazette of April 18, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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Commissioner for Patents
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Paper No.

BEYER WEAVER & THOMAS LLP
PO BOX 778
BERKELEY, CA 94704-0778

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JUN 2 9 2004
OFFICE OF PETITIONS

In re Patent of	:	
Pelrine et al.	:	
Application No. 10/047,485	:	DECISION
Filed: October 26, 2001	:	ON PETITION
Title of Invention:	:	
ELASTOMERIC DIELECTRIC POLYMER	:	
FILM SONIC ACTUATOR	:	

This is a decision on the Petition to Withdraw Holding of Abandonment Based on Failure to Receive Final Rejection, filed June 3, 2004. The petition is properly treated under 37 CFR §1.181(a).

The petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed October 20, 2003. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on January 21, 2004. A Notice of Abandonment was mailed on May 18, 2004.

Applicant requests that the holding of abandonment in this application be withdrawn because Applicant did not receive the final rejection. In support of this request, applicant provides that this application was transferred to his Office on or about May 17, 2003. Applicant further provides that a power of attorney (changing the correspondence) was filed with this

Office nearly 11 months later, on April 14, 2004. In the interim, on October 20, 2003, Applicant notes that this Office mailed the final Office action. Applicant says that, "however, the Office Action was mailed to the [prior law firm], where no further action was taken." Applicant subsequently contacted this Office and was sent a copy of the Office action via facsimile on April 21, 2004. Applicant next attests to the fact that a search of the file jacket and docket records indicate that no final Office action was received prior to the six month period for reply.

A review of Office records indicate that the final Office action was properly mailed to the correspondence address of record. Absent any irregularities in the mail, correspondence is presumed to have been delivered to the correspondence address of record. A review of the file reveals no irregularity in the mailing. Further, Applicant admits that he failed to correct the correspondence address until nearly 11 months after the instant application was transferred to his Office. In the interim, applicant further admits that this Office mailed the final Office action to the correspondence address of record. Finally, and after Applicant admits that the final Office action was mailed to the prior law firm AFTER the file was transferred to him, Applicant avers that he has searched HIS file jacket and docket records which indicate that no final Office action was received.

The petition is dismissed.

The application file is being forwarded to Technology Center Art Unit 2643 for review of Amendment B, filed June 3, 2004, for a determination of whether the Amendment places the application in condition for allowance, before consideration of the petition under 37 CFR 1.137(b) may be considered.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

BEYER WEAVER & THOMAS LLP
PO BOX 778
BERKELEY, CA 94704-0778

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JUL 1 6 2004
OFFICE OF PETITIONS

In re Patent of	:	
Pelrine et al.	:	
Application No. 10/047,485	:	DECISION
Filed: October 26, 2001	:	ON PETITION
Title of Invention:	:	
ELASTOMERIC DIELECTRIC POLYMER	:	
FILM SONIC ACTUATOR	:	

This is a decision on the Petition to Revive Unintentionally Abandoned Application or Lapsed Patent (37 CFR 1.137(b), filed June 3, 2004.

The petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed October 20, 2003. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on January 21, 2004. A Notice of Abandonment was mailed on May 18, 2004.

Applicant files the instant petition and Amendment B in response to the final Office action.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed); (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing

the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). Applicant lacks item (**1**).

As to item (1), Applicant has not submitted a proper reply to the October 30, 2003 Office action. The Amendment B, filed with the instant petition on June 3, 2004, attempts to introduce new issues not heretofore presented.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 19

BEYER WEAVER & THOMAS LLP
PO BOX 778
BERKELEY, CA 94704-0778

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SEP 15 2004

OFFICE OF PETITIONS

In re Patent of	:	
Pelrine et al.	:	
Application No. 10/047,485	:	DECISION
Filed: October 26, 2001	:	ON PETITION
Title of Invention:	:	
ELASTOMERIC DIELECTRIC POLYMER	:	
FILM SONIC ACTUATOR	:	

This is a decision on the Renewed Petition Under 37 CFR 1.137, filed August 27, 2004, which is properly treated under 37 CFR 1.137(b).

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed October 20, 2003. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on January 21, 2004. A Notice of Abandonment was mailed on May 18, 2004.

With the instant petition, Petitioner paid the petition fee; submitted a Request for Continued Examination ("RCE"), and fee. A submission in the form of an Amendment was previously filed on June 3, 2004[1]. Accordingly, the petition is granted.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

[1] The Amendment was not entered as it raised new issues requiring further consideration and/or search.

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WASHINGTON, D.C. 20231
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Paper No. 4

MCDERMOTT, WILL & EMERY
2700 SAND HILL ROAD
MENLO PARK CA 94025

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AUG 0 6 2002

OFFICE OF PETITIONS

In re Application of	:	
Cook et al.	:	
Application No. 10/047,511	:	DECISION DISMISSING
Filed: 19 October, 2001	:	PETITION
Attorney Docket No. 62967-035	:	

This is a decision on the petition under 37 CFR 1.53 filed on 15 May, 2002, requesting that the above-identified application be accorded a filing date of 19 October, 2001, with Page 6 of the specification as a part of the original disclosure.

The petition is **dismissed**.

On 19 October, 2001, the application was filed.

On 15 March, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Missing Parts of Nonprovisional Nonprovisional Application stating that the application had been accorded a filing date of 19 October, 2001, but that, *inter alia*, Page 6 of the specification (description and claims) appeared to have been omitted from the application.

In response, on 15 May, 2002, the present petition was filed. Petitioners argue that Page 6 was not missing on 19 October, 2001. Petitioners point to their postcard receipt as evidence that Page 6 of the specification was among the application papers filed on 19 October, 2001. Petitioners request that the application be accorded a filing date of 19 October, 2001, with Page 6 as a part of the original disclosure.

The argument and evidence supplied with the petition have been carefully considered, but are not persuasive. The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard

identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503). Unfortunately, petitioners' postcard receipt does not bear an Office-date stamp from the USPTO. As such, the postcard receipt does not serve as evidence that the items listed therein were received in the USPTO. If petitioners have a copy of the postcard receipt for this application with a USPTO "Office date" stamp, a copy of that postcard should be submitted with any renewed petition.

The petition is dismissed.

The copy of Page 6 of the specification supplied with the present petition will not be used for processing or examination, but will be retained in the application file. Petitioners may choose to file Page 6 as a preliminary amendment. If Page 6 is filed as a preliminary amendment, the amendment will be reviewed for new matter.

The petition fee of $130.00 will not be refunded since the present petition was not necessitated by Office error.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 15 March, 2002, using the application papers filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DIW 05-02

Paper No. 7

MICHAEL A. OBLON
SHAW PITTMAN LLP
1650 TYSONS BOULEVARD
MCLEAN, VA 22102

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SEP 2 5 2002

OFFICE OF PETITIONS

In re Application of	:
Cook et al.	:
Application No. 10/047,511	: DECISION GRANTING
Filed: 19 October, 2001	: PETITION
Attorney Docket No. 62967-035	:

This is a decision on the renewed petition under 37 CFR 1.53 filed on 21 August, 2002, requesting that the above-identified application be accorded a filing date of 19 October, 2001, with Page 6 of the specification as a part of the original disclosure.

The petition is **GRANTED**.

On 19 October, 2001, the application was filed.

On 15 March, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Missing Parts of Nonprovisional Nonprovisional Application stating that the application had been accorded a filing date of 19 October, 2001, but that, *inter alia*, Page 6 of the specification (description and claims) appeared to have been omitted from the application. The petition filed on 15 May, 2002, was dismissed on 6 August, 2002, because petitioners had not presented persuasive evidence that Page 6 was among the application papers filed on 19 October, 2001.

In response, on 21 August, 2002, the present renewed petition was filed. Petitioners again argue that Page 6 was not missing on 19 October, 2001. Petitioners point to their postcard receipt as evidence that Page 6 of the specification was among the application papers filed on 19 October, 2001. Petitioners request that the application be accorded a filing date of 19 October, 2001, with Page 6 as a part of the original disclosure.

In support, on 21 August, 2002, a copy of petitioner's postcard receipt was supplied. The postcard receipt bears a USPTO Office date stamp dated 10/19/01 which also contains the above-identified application number and itemizes the filing of, *inter alia*, 20 pages of specification and two (2) pages of claims. The postcard receipt also identifies the application by first named inventor's name, invention title, and attorney docket number.

A review of the record reveals that Page 6 of the specification is not located among the application papers deposited on 19 October, 2001. However, the evidence is convincing that the application papers deposited on 19 October, 2001, included Page 6 of the specification and that page were subsequently misplaced in the Office. Therefore, the application, including Page 6 of the specification, is entitled to a filing date of 19 October, 2001. The "Notice" mailed on 15 March, 2002, is vacated to the extent that it stated that Page 6 of the specification appeared to have been omitted.

In view of the above, the petition is granted.

The application will be processed using the application papers filed on 19 October, 2001, and the copy of Page 6 of the specification supplied on 15 May, 2002.

The revocation and power of attorney and change of correspondence address filed on 9 September, 2002, is accepted.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 19 October, 2001, using the application papers filed on 19 October, 2001, and the copy of Page 6 of the specification (description and claims) supplied on 15 May, 2002.

Telephone inquires should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Glenn Patent Group
3475 Edison Way, Suite L
Menlo Park CA 94025

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OFFICE OF PETITIONS

In re Application of
Yishao Max Huang
Application No. 10/047,518
Filed: October 26, 2001
Attorney Docket No. 02Micro 02.12
For: PCI-PCMCIA SMART CARD READER

~~In re Application of~~
~~Yishao Max Huang~~
~~Application No. 10/055,103~~
~~Filed: January 22, 2002~~
~~Attorney Docket No. 02MI0004~~
~~For: PCI-PCMCIA SMART CARD READER~~

DECISION DISMISSING PETITION UNDER 37 CFR 1.10(e) AND MERGING FILES

This is a decision on the petition under 37 CFR 1.10(e) filed January 22, 2002, accompanied by a copy of the application papers, requesting that the Office accept the copy of the application papers as the original application papers and grant a filing date of October 26, 2001.

Petitioner states that he did not receive the return postcard for the application and when the applicant called the Office to inquire about the application, he was informed that there was no record of the filing and was advised that the receipt of the application by the Office was probably delayed due to the anthrax decontamination of the Office's mail conducted by the United States Postal Service (USPS). As a result, petitioner filed the instant petition on January 22, 2002 accompanied by a copy of the application papers, filing fees, a copy of the Express Mailing label for the original application papers, and a statement that the copy of the application papers provided with the petition is a true copy of the original application papers.

The copy of the application papers filed with the petition was assigned application No. 10/055,103 and a filing date of January 22, 2002. However, the original application papers filed on October 26, 2001, have now been identified. The original application papers have already been assigned application No. 10/047,518 and accorded a filing date of October 26, 2001.

Accordingly, the petition under 37 CFR 1.10(e) filed on January 22, 2002, is dismissed as moot.

Based on the available evidence, the petition and the copy of the application papers were filed as a result of the unusual delay in receiving the original application papers by the Office because of

the USPS anthrax decontamination process. Therefore, it is appropriate to merge the file of the duplicate application (application No. 10/055,103 filed January 22, 2002) into the file of the original application (application No. 10/047,518 filed October 26, 2001).

The papers in the file of application No. 10/055,103 will be placed in the file of application No. 10/047,518. However, only the original application papers will be used in the processing and examination of the application. The copy of the application papers filed with the petition on January 22, 2002 includes formal drawings and an information disclosure statement (citing Patent Nos. 5,555,510 and 5,671,368) that are not included in the original application papers. **Thus, the copy of the application papers filed on January 22, 2002 is not a true copy of the original application papers. If petitioner wishes to have formal drawings and the information disclosure statement (IDS) in the application for examination purposes (and printing of the patent if the application is subsequently allowed), petitioner must submit the formal drawings and the IDS for application No. 10/047,518.**

The application fee of $370.00, excess claims fee of $42.00, and the assignment fee of $40.00 paid in application No. 10/055,103 will be refunded to **deposit account No. 07-1445**.

After the mailing of this decision, the applications will be forwarded to the Office of Initial Patent Examination (OIPE) for merging the file of application No. 10/055,103 into the file of application No. 10/047,518. **Application No. 10/055,103 will no longer be an active application number.** All future correspondence concerning this application should be directed to application No. 10/047,518.

Application No. 10/047,518 will then be returned to the Technology Center 2100 for further processing.

Any inquiries concerning this decision should be directed to Joni Chang at (703) 308-3858.

Eugenia Jones

Eugenia Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc.

Edmund P. Pfleger
Grossman Tucker Perreault & Pfleger, PLLC
55 South Commercial Street
Manchester, New Hampshire 03101

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Paper No. 10

MAIL

MAR 17 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FASTH LAW OFFICES
629 E. BOCA RATON ROAD
PHOENIX AZ 85022

In re Application of
Berg et al.

Application No. 10/047,532
Filed: October 23, 2001
For: **METHOD AND ARRANGEMENT FOR SEARCH AND RECORDING OF MEDIA SIGNALS**

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 February 02, 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**.

Attorney requesting the withdraw is 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 Central Files to await examination in appropriate turn.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

Cc: Jakob Berg
PopCatcher AB
Sodermalarstrand 27B, 6tr
SE-118 25 Stockholm
Sweden

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 15, 2006

TO SPE OF : ART UNIT 2125

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/047535 Patent No.: 7,020,591

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Sorry for delay. Previous SPE left office

PAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2123

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET NE
HARTVILLE OH 44632

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JUL 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Gary Karlin Michelson	:	
Application No. 10/047,545	:	ON PETITION
Filed: January 16, 2002	:	
Attorney Docket No. 101.0053-01000	:	

This is a decision on the petition under 37 CFR 1.313(a), filed July 10, 2008, to withdraw the above-identified application from issue.

The petition is **DISMISSED**.

Petitioner requests that the present application be withdrawn from issue for continued prosecution based on a rejection raised in parent application serial no. 08/480,908, filed June 07, 1995. Petitioner indicates that in parent 08/480,908 a provisional obviousness-type double patenting rejection was made that would be properly applicable to both the present application and the parent application 08/480,908.

37 CFR 1.313(a) states, in part:

> Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

As such, a grantable petition requesting withdrawal of an application from issue must be accompanied by: (1) a showing of good and sufficient reasons why withdrawal of the application from issue is necessary; and (2) the requisite petition fee under 37 CFR 1.17(h). The petition fee of $130.00 has been charged to petitioner's deposit account.

Requirement (1) is at issue. The petition does not set forth good and sufficient reasons as to why withdrawal of the application from issue is necessary. A review of the file of parent application Serial No. 08/480,908 does not indicate the presence of the ODP rejection in the current Office

action dated June 27, 2008, as alleged by petitioner. Hence the allegation of a potential and possible rejection here, based on the facts given, does not make withdrawal of the application from issue necessary. But in any event there are other avenues open to applicant to have this issue considered and resolved other than by way of petition.

Following the part of 37 CFR 1.313(a) cited above, 37 CFR 1.313(a) goes on to state:

> A petition under this section is not required if a request for continued examination under § 1.114 is filed prior to payment of the issue fee.

The filing of a request for continued examination (RCE) under 37 CFR 1.114 with a submission and the fee set forth in 37 CFR 1.17(e) would have been a proper available option to have the issue considered. It is well documented that the citation of documents on an IDS that complies with 37 CFR 1.97 and 1.98 satisfies the submission requirement under 37 CFR 1.114. *See* MPEP 706.07(h)(II).

For the above reasons, this application will not be withdrawn from issue under the provisions of 37 CFR 1.313(a).

Any inquiries regarding this decision should be directed to the undersigned at (571) 272-0602.

This application is being returned to the Office of Publication.

Thurman K. Page

Thurman K. Page
Petitions Examiner
Office of Petitions

MARTIN & FERRARO, LLP
1557 Lake O'Pines Street, NE
Hartville, Ohio 44632

Telephone
(330) 877-0700

Facsimile
(330) 877-2030

FACSIMILE TRANSMITTAL

TO:

Name: Office of Petitions

Firm: U.S. Patent & Trademark Office

Fax No.: 571-273-0025

Subject: U.S. Patent Application No. 10/047,545
Gary Karlin Michelson
Filed: January 16, 2002
THREADED FRUSTO-CONICAL INTERBODY SPINAL FUSION IMPLANTS
Attorney Docket No. 101.0053-01000
Customer No. 22882
Confirmation No. 4993

FROM:

Name: Thomas H. Martin, Esq.

Phone No.: 330-877-0700

No. of Pages (including this): 3

Date: July 8, 2008

FAX RECEIVED
JUL 10 2008

Confirmation Copy to Follow: NO

Message:

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that the attached Petition To Withdraw From Issue Under 37 C.F.R. § 1.313(a) ($130 Petition fee is to be charged to Deposit Account No. 50-3726) is being facsimile transmitted to the U.S. Patent and Trademark Office on July 8, 2008.

Sandra L. Blackmon

If there is a problem with this transmission please call the sender at the number above.

The information contained in this facsimile message is privileged and confidential information intended only for the use of the addressee listed above. If you are not the intended recipient or the employee or agent responsible to deliver this message to the intended recipient, please do not use this transmission in any way, but contact the sender by telephone.

PATENT
Attorney Docket No. 101.0053-01000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)	Confirmation No.: 4993
Gary Karlin Michelson)	
Serial No: 10/047,545)	Group Art Unit: 3772
Filed: January 16, 2002)	Examiner: Michael A. Brown
For: THREADED FRUSTO-CONICAL)	
INTERBODY SPINAL FUSION)	
IMPLANTS	

FAX RECEIVED

07/16/2008 CKHUMI 00000004 503726 10047545
Sale Ref: 00000004 DA#: 503726 10047545
01 FC:1464 130.00 DA

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

PETITION TO WITHDRAW FROM ISSUE UNDER 37 C.F.R. § 1.313(a)

After receipt of a Notice of Allowance dated June 25, 2008, but prior to the payment of the associated issue fee, Applicant requests that the present application be withdrawn from issue. Currently, the parent application, U.S. Serial No. 08/480,908, of the present application is pending, but subject to a "provisional" nonstatutory obviousness-type double patenting ("ODP") rejection based on claims of the present application. Applicant received the ODP rejection in the parent application subsequent to the Notice of Allowance in the present application in an Office Action dated June 27, 2008.[1] According to MPEP § 804 and Chart I-B included therein, an ODP rejection is properly applicable to each of the present and parent applications. Therefore, Applicant requests that the present application be withdrawn from issue, and properly subjected to an ODP rejection.

---

[1] Note that a previous ODP rejection in the parent application similarly based on claims in the present application was overcome by cancelling the offending claims from the present application. However, after filing two status inquires on March 20 and June 09, 2008, and waiting six (6) months for prosecution to continue in the parent application, Applicant received yet another ODP rejection based on different claims in the present application.

Additionally, MPEP § 804, page 800-17, indicates that when two applications are each subject to an ODP rejection, "the examiner should withdraw the ODP rejection in the earlier filed application thereby permitting that application to issue without need of a terminal disclaimer." Thereafter, according to MPEP § 804, page 800-17, "a terminal disclaimer must be required in the later-filed application before the ODP rejection can be withdrawn and the application permitted to issue." Because the parent application was filed June 07, 1995, and the present application was filed January 01, 2002, Applicant submits that the parent application is the earlier filed application by more than six (6) years. Therefore, but for the proper applicability of an ODP rejection to the present application, Applicant submits that both the present and parent applications are in condition for allowance. Accordingly, Applicant requests that the Director facilitate issuance of a Notice of Allowance in the parent application. The parent application has been pending for more than 13 years, and is ripe for issuance of a Notice of Allowance.

The petition fee in the amount of $130.00 (37 C.F.R. 1.17(h)) is submitted herewith. If there are any additional fees due in connection with the filing of this Petition, please charge the fee to our Deposit Account 50-3726.

Respectfully submitted,

MARTIN & FERRARO LLP

Date: July 8, 2008

By: Thomas H. Martin
Registration No. 34,383

1557 Lake O'Pines Street, NE
Hartville, Ohio 44632
Telephone: (330) 877-0700
Facsimile: (330) 877-2030

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MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE, OH 44632

MAILED

APR 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Gary Karlin Michelson	:	
Application No. 10/047,545	:	DECISION ON PETITION
Filed: January 16, 2002	:	
Attorney Docket No. 101.0053-01000	:	

This is a decision on the petition under 37 CFR 1.314, filed March 25, 2009, to defer issuance of the patent. A patent number of 7,520,878 and issue date of April 21, 2009 has been assigned.

The petition is **DISMISSED**.

Issuance of a patent cannot be deferred after an application has received a patent number and an issue date unless the application is withdrawn from issue under 37 CFR 1.313(b) [Office initiative] or (c) [applicant's request]. *See* MPEP 1306.01. Petitioner does not assert or satisfy the criteria for withdrawal of the application from issue pursuant to the provisions of 37 CFR 1.313(c). Accordingly, the petition considered under any reasonably applicable grounds cannot be granted.

This matter is being returned to the Office of Data Management.

Telephone inquiries regarding this decision should be directed to April M. Wise at (571) 272-1642.

/SDB/
Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE OH 44632

In re Application of :
Gary Karlin Michelson :
Application No. 10/047,545 : ON PETITION
Filed: January 16, 2002 :
Attorney Docket No. 101.0053-01000 :

This is a decision on the petition under 37 CFR 1.313(c)(3), filed April 10, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the application be withdrawn from issue for express abandonment.

The petition complies with the requirements of 37 CFR 1.313(c)(3). Accordingly, the application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to the undersigned at (571) 272-3204.

/SDB/

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
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,545	01/16/2002	Gary Karlin Michelson	101.0053-01000	4993

7590 05/04/2009
MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE, OH 44632

EXAMINER
BROWN, MICHAEL A

ART UNIT	PAPER NUMBER
3772	

MAIL DATE	DELIVERY MODE
05/04/2009	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☑ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☐ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.
4. ☐ Petition fee was not paid.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Kaletha Buchanan
Patent Publication Branch
Office of Data Management

FORM PET650D (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6

CASELLA & HESPOS
274 MADISON AVENUE
NEW YORK, NY 10016

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JUN 07 2002

OFFICE OF PETITIONS

In re Application of
Martin Klein
Application No. 10/047,556
Filed: October 23, 2001
Attorney Docket No. H 2182

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CASELLA & HESPOS
274 MADISON AVENUE
NEW YORK, NY 10016

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FEB 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Martin Klein et al	:	
Application No. 10/047,556	:	ON PETITION
Filed: October 23, 2001	:	
Attorney Docket No. H 2182	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 3, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed July 26, 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 October 27, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

The application is being forwarded to Technology Center AU 2878 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BROMBERG & SUNSTEIN
125 SUMMER STREET
BOSTON, MA 02110-1618

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JAN 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Yakov Reznichenko	:	
Application No. 10/047,566	:	ON PETITION
Filed: January 15, 2002	:	
Attorney Docket No. 2550/118	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 16, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The reply submitted on June 17, 2004 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed July 12, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed, and no extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on July 17, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center 2872 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Wood, Herron & Evans, LLP
2700 Carew Tower
441 Vines Street
Cincinnati, OH 45202

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AUG 0 6 2004
OFFICE OF PETITIONS

In re Application of	:	
Jeffrey S. Kiel, et al.	:	
Application No. 10/047,578	:	ON PETITION
Filed: October 26, 2001	:	
Attorney Docket No. KIEL/02	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 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 referred to Technology Center 1600 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Marianne E. Jenkins
Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

05 JAN 2006

Commissioner for Patents
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Alexandria, VA 22313-1450
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David E. Jefferies
WOOD, HERRON & EVANS, LLP
2700 Carew Tower
Cincinnati, Ohio 45202

In re Application of: KIEL, Jeffrey, S., et al. Application No.: 10/047,578 Filing Date: October 26, 2001 Atty Docket No.: KIEL/02 For: PHEYLEPHRINE TANNATE AND PYRILAMINE TANNATE SALTS IN PHARMACEUTICAL COMPOSITIONS	DECISION ON PETITION UNDER 37 CFR 1.78(a)(6)

This is a decision on the "Petition To Accept Unintentionally Delayed Claim For Priority Under 35 U.S.C. § 119(e)" filed August 08, 2005, treated herein under 37 CFR 1.78(a)(6). The petition seeks acceptance of an unintentionally delayed claim under 35 U.S.C. §§ 119(e) for the benefit of the prior-filed provisional application identified in the concurrently filed Application Data Sheet (ADS).

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 the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference to the prior-filed required by 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(i), unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17(t);
(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 present 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 the 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 complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that: (1) a reference to the prior-filed provisional application has been included in an ADS, 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 includes a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of the unintentionally delayed claim for the benefit

of priority under 35 U.S.C. 119(e) to the 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)(1) and (a)(2) must be met. Similarly, the fact that the Filing Receipt accompanying this decision on petition will include 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 provisional application, accompanies this decision on petition.

Any questions concerning this decision may be directed to Richard M. Ross at (571) 272-3296. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1614 for appropriate consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 119(e) to prior-filed provisional Application No. 60/282,969.

BMM

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

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
10/047,578	10/26/2001	1614	751	KIEL / 02		53	5

CONFIRMATION NO. 4696

CORRECTED FILING RECEIPT

OC000000017766176

26875
WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

Date Mailed: 01/03/2006

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)

Jeffrey S. Kiel, Gainesville, GA;
H. Greg Thomas, Villa Rica, GA;
Narasimhan Mani, Gainesville, GA;

Assignment For Published Patent Application

PediaMed Pharmaceuticals, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **26875**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/282,969 04/10/2001

Foreign Applications

If Required, Foreign Filing License Granted: 02/19/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/047,578

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Phenylephrine tannate and pyrilamine tannate salts in pharmaceutical compositions

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).

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Richard P. Stitt
SHUGHART THOMSON
& KILROY, P.C.
120 West 12th Street
Kansas City, Missouri 64105

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JUN 03 2005

OFFICE OF PETITIONS

In re Application of	:	
Edward T. Huxel	:	DECISION ON
Application No.: 10/047,579	:	PETITION
Filing Date: 15 January 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 5000 508-8	:	

This is a decision on the petition under 37 CFR 1.137(b), filed 13 April 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 28 December 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on 29 March 2005.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the Issue Fee under 37 CFR 1.18(a), (2) the petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of 28 December 2004 is accepted as having been unintentionally delayed.

This matter is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to Nguyen Ngoc-Ho at (571) 272-3290.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 13

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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OCT 0 8 2003

OFFICE OF PETITIONS

In re Application of :
John H. Stevens :
Application No. 10/047,581 :
Filed: October 23, 2001 :
Attorney Docket No. HRT-287 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 29, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 27, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 28, 2002.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center 3700 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,587	01/15/2002	Nabil L. Muhanna	M112 1100	4693

7590 12/01/2005

WOMBLE CARLYLE SANDRIDGE & RICE
P.O. Box 7037
Atlanta, GA 30357-0037

EXAMINER
STOKES, CANDICE CAPRI

ART UNIT	PAPER NUMBER
3732	

DATE MAILED: 12/01/2005

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
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Alexandria, VA 22313-1450
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In re Patent No. MUHANNA, NABIL L.	:	
Issue Date: August 30, 2005	:	**DECISION GRANTING**
Appl No.: 10/047,587	:	**PETITION**
Filed: January 15, 2002	:	*37 CFR 1.324*
For: INVERTEBRAL DISC PROSTHESIS AND	:	
METHODS OF IMPLANTATION	:	
	:	
	:	

This is a decision on the petition filed October 20, 2005 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Corrine M. McDermott
Supervisory Patent Examiner
Art Unit 3738
Technology Center 3700

WOMBLE CARLYLE SANDRIDGE & RICE
P.O. Box 7037
Atlanta, GA 30357-0037

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 7

FISH & NEAVE
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OCT 2 4 2002

OFFICE OF PETITIONS

In re Application of Andrew C. Gilbert, Andrew Stergiopoulos and William P. Tselepis Application No. 10/047,607 Filed: January 14, 2002 Attorney Docket No. CF-034 Title: SYSTEMS AND METHODS FOR ELECTRONIC TRADING THAT PERMIT PRINCIPAL/BROKER TRADING	DECISION REFUSING STATUS UNDER 37 C.F.R. § 1.47(a)

This is a decision on the petition under §1.47(a), filed July 12, 2002.

The above-identified application was filed on January 14, 2002, without an executed oath or declaration, and naming Andrew C. Gilbert, Andrew Stergiopoulos and William P. Tselepis as joint inventors. Accordingly, on February 13, 2002, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring applicants to submit an executed oath or declaration and the surcharge under §1.16(e) for its late filing. This Notice set a two month period for reply, with extensions of time obtainable under §1.136(a).

Applicants replied filing the instant petition under §1.47, with a declaration executed by the legal representatives of inventors Stergiopoulos and Tselepis. (All three inventors are deceased). This reply was made timely by an accompanying petition for a three-month extension of time. Applicants state that acceptance of the declaration under §1.47 is proper because the legal representative of inventor Gilbert has been identified, but she refuses to sign. Accompanying the petition is a copy of a letter sent to the nonsigning legal representative requesting her signature. Petitioner states that a copy of the declaration and power of attorney was sent with this letter.

RELEVANT STATUTES, REGULATIONS AND PROCEDURES

37 CFR 1.42:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

MPEP 409.03(c) Legal Representatives of Deceased Inventor Not Available:

> 37 CFR 1.47 applies where a known legal representative of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application.

37 CFR 1.47 Filing when an inventor refuses to sign or cannot be reached.

> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the non-signing inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the non-signing inventor. The non-signing inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

37 CFR 1.64 Person making oath or declaration.

> (a) The oath or declaration (§ 1.63), including any supplemental oath or declaration (§ 1.67), must be made by all of the actual inventors except as provided for in §§1.42, 1.43, 1.47, or § 1.67.
>
> (b) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, 1.47, or § 1.67), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor is required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

ANALYSIS

The declaration has been reviewed and found in compliance with §§ 1.47, 1.63 and 1.64. The petition includes payment of the petition fee and the last known address of the deceased inventor and of the legal representative. However, the petition is not grantable because petitioner has not submitted adequate proof of refusal.

Before a refusal can be alleged, applicants must demonstrate that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the legal representative. The legal representative is making application for patent on behalf of the deceased inventor and should be presented with the same documents that the inventor would have been presented with. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure

ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956). See MPEP 409.03(d).

Rule 47 applicants have only offered evidence showing that the declaration and power of attorney were presented to the legal representative for deceased inventor Gilbert. Thus, on renewed petition, applicants must establish that the entire application package, including specification, claims and drawings, was presented to the legal representative and she refused to sign. A copy of the application papers should be sent by certified mail return-receipt requested to the last known address of the legal representative, or, if the legal representative is represented by counsel, to the address of the non-signing inventor's attorney. Documentary evidence, including copies of the transmittal cover letters and return mail receipts, should be made part of the record.

CONCLUSION

In view thereof, the petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted above, except that the reply may include an oath or declaration executed by the legal representative of the deceased inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR 1.136(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions
ATTN: NANCY JOHNSON

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza Four, Suite 3C23
Arlington, VA

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 10

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JAN 06 2003

OFFICE OF PETITIONS

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
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NEW YORK, NY 10020-1105

In re Application of Andrew C. Gilbert, Andrew Stergiopoulos and William P. Tselepis Application No. 10/047,607 Filed: January 14, 2002 Attorney Docket No. CF-034 Title: SYSTEMS AND METHODS FOR ELECTRONIC TRADING THAT PERMIT PRINCIPAL/BROKER TRADING	DECISION NOTING JOINDER OF LEGAL REPRESENTATIVE AND PETITION UNDER 37 CFR 1.47(a) MOOT

This is a decision on the Request for Reconsideration of Petition under 37 C.F.R. § 1.47(a), filed December 18, 2002.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on January 14, 2002, without an executed oath or declaration, and naming Andrew C. Gilbert, Andrew Stergiopoulos and William P. Tselepis as joint inventors. In reply to the "Notice to File Missing Parts of Nonprovisional Application" mailed February 13, 2002, applicants timely filed the initial petition under § 1.47, with a declaration executed by the legal representatives of inventors Stergiopoulos and Tselepis. However, the petition was dismissed for failure to demonstrate that a *bona fide* attempt had been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the legal representative of inventor Gilbert (Decision mailed October 24, 2002).

On instant request for reconsideration, applicants timely replied filing a declaration executed by previously non-signing legal representative Mary Ann Gilbert. This declaration (considered in combination with the declarations previously filed July 12, 2002) has been reviewed and found in compliance with 37 CFR 1.63 and 1.64.

In view of the joinder of the joint inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing. Receipt of a request for rescission of the nonpublication request is noted (Paper No. 6).

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson

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. 13

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK, NY 10020-1105

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APR 1 7 2003

OFFICE OF PETITIONS

In re Application of	:	
Andrew C. Gilbert et al	:	
Application No. 10/047,607	:	DECISION GRANTING PETITION
Filed: January 14, 2002	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. CF/034	:	

This is a decision on the petition, filed April 8, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on May 24, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found in compliance with 37 CFR 1.137(f). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay in filing the required reply [Notice to Rescind Previous Nonpublication Request Under 35 U.S.C. § 122(b)(2)(B)(ii)] until the filing of a grantable petition was unintentional." Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 3624 for examination in due course.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

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MAR 3 1 2008

In re Application of
GILBERT, Andrew C. et al.
Application No. 10/047,607
Filed: January 14, 2002
Attorney Docket No. **CF-030**

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 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. Please be advised that a change of address was submitted on November 09, 2007.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 8, 2007

TO SPE OF : ART UNIT 3763 Nicholas D. Lucchesi

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/047,662 Patent No.: 6872193 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Antonio Johnson
Certificates of Correction Branch
703-308-9390 ext. 111

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

SPE — 3763 Art Unit

Approved for use through 04/30/2009. 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)
6674292	2004-01-06	10047672	2002-01-14	SM031

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	/michael o. scheinberg/	Date (YYYY-MM-DD)	2008-02-20
Name	MICHAEL O. SCHEINBERG	Registration Number	36919

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. 6674292
Issue Date: January 6,2004
Application No. 10047672
Filed: January 14,2002
Attorney Docket No. 1000-1099

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed February 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 February 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.

UNITED STATES 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 K. Tendler
Law Offices of Robert K. Tendler
65 Atlantic Ave
Boston MA 02110

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MAR 29 2010

OFFICE OF PETITIONS

In re Patent No. 6,980,633	:	
Issue Date: December 27, 2005	:	
Application No. 10/047,677	:	ON PETITION
Filed: January 15, 2002	:	
Attorney Docket No. 3052/104	:	

This is a decision on the petition under 37 CFR 1.378(c), filed January 15, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 28, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

The patent file is being forwarded to Files Repository.

Terri Johnson
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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JAN 2 8 2003

Technology Center 2100

Paper No. 6

Erwin J. Basinski
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105-2482

In re Application of: Jonathan M. Friedman, et al.	)	
Application No. 10/047,679	)	**DECISION ON REQUEST FOR**
Filed: January 14, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: TIME-BASED MODELING	)	

This is a decision on the Request To Withdraw from Representation filed January 6, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

For

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Gerald Edelman Business Recovery
Attn: Mr. Yerrill
Suite 1, Kent House
Station Road
Ashford, Kent TW23 1PP
United Kingdom

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Alexandria, VA 22313-1450
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Mailed: NOV 19 2004

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Paper Number _____

In re application of
Ghosh et al.
Serial No. 10/047 ,689
Filed: January 15, 2002
For: CLEANING COMPOSITIONS CONTAINING MULTIPLY SUBSTITUTED PROTEASE VARIANTS

DECISION ON PETITION

This is a response to the REQUEST FOR WITHDRAWAL OF HOLDING OF ABANDONMENT OR REVIVAL OF ABANDONED APPLICATION filed on March 10, 2004. The request asks that the Notice of Abandonment mailed October 2, 2003, for failure to respond to the Office Action mailed March 20, 2003 be withdrawn since applicants did respond by a filing an amendment on September 22, 2003.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that the request can be granted.

The Petition is **GRANTED.**

The application is returned to active status.

William Krynski
Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

Angela Marie Stone
The Proctor & Gamble Company
Intellectual Property Division
Winton Hill Technical Center – Box 161
6110 Center Hill Avenue
Cincinnati, OH 45224

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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805

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MAR 0 2 2004

OFFICE OF PETITIONS

In re
Application of
Y. Hatase, et al.
Application No. 10/047,731
Filed: November 13, 2001
For: Colored Thermoplastic Resin Compositions for Laser Welding Anthraquinone Colorants Therefor and Molded Product Therefrom

Response to Status Letter and Request for Corrected Filing Receipt

This is in response to the status letter filed October 23, 2003. This is also in response to the Request for a Corrected Filing Receipt, filed October 9, 2003, which has been treated as a petition under 37 CFR 1.182.

The petition is GRANTED.

The application was identified in U.S. Patent Application Publication No. 2003/0065074. Accordingly, status information is available to the applicant, as well as to the public, pursuant to 37 CFR 1.14(a)(2). The zip code provided in the status request was different from that in the address associated with the customer number and the address given on the United States Postal Service Internet web site (http://www.usps.com/). Accordingly, the address specified above is the address associated with the Customer Number, and not the address specified in the Status Request.

Status Information

The application is still pending.

Status information regarding published patent applications is available on the USPTO Internet web site at: http://pair.uspto.gov. In addition, in the future, since the application has an Image File Wrapper, images of the papers of the patent application will also be available to the public on the USPTO web site. Furthermore, since it is the applicant who is asking for status information, it is noted that since applicant has a Customer Number associated with the correspondence address, any attorney associated with the Customer Number (such as Mr. Hamby) has access to the Image

File Wrapper through Private PAIR. For further information on Private PAIR see: http://www.uspto.gov/ebc/ or contact the Electronic Business Center by telephone at: 866-217-9197 (toll-free), 703-305-3028 or 703-308-6845, or by E-mail at ebc@uspto.gov.

Corrected Filing Receipt/Petition under 37 CFR 1.182

The above-identified application was deposited on November 13, 2001.

On March 13, 2002, a Notice to File Missing Parts of Application was mailed. The notice indicated that the oath or declaration was missing, and required the oath or declaration and a surcharge for its late filing. Furthermore, the Notice noted that pages 31, 33, 39 and 41 of the specification were omitted, and stated that the filing date of the application would be the date of receipt of the omitted pages, unless applicant could establish that the papers were included with the application on filing. If the applicant elected to contend that the item was in fact deposited in the Office, applicant was required to file a petition, and petition fee, with evidence of the deposit of the missing pages. Alternatively, applicant was permitted to file the missing pages and a petition under 37 CFR 1.182 requesting the date of deposit of the missing pages treated as the filing date of the application. Applicant was informed that if the petition, and petition fee were not filed within two months of the mailing date of the letter (March 13, 2002), applicant would be treated as having constructively elected that the application papers be processed as originally deposited in the Office. The Notice indicated that "THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b)."

On April 26, 2002, applicant filed a "Declaration (37 CFR 1.63) for Utility or Design Application Using an Application Data Sheet" and a "Power of Attorney or Authorization of Agent". A cover letter for these papers is not included in the application file, and none of the papers have a Certificate of Mailing. At the time, papers mailed to the USPTO were often irradiated, a process which made the papers very brittle, yellowed, and, in some instances, the papers had a chemical smell.

On May 20, 2002, a "Request for Substitute Papers" was mailed. The Request indicated that the "papers filed on April 26, 2002 (certificate of mailing dated April 17, 2002) are no longer in condition to become part of the permanent records" of the Office and requested a copy of the papers to be faxed to the Office.

On Monday, June 17, 2002, applicant filed two documents titled "Response to Notice to File Missing Parts of Application-Filing Date Granted," with a petition for a one-month extension of time. The response included: a two page application data sheet, a one page declaration, four pages of power of attorney, the required surcharge, and a certificate of mailing showing that the papers were mailed on June 13, 2003, among other things. The response to the Notice also included a post card receipt showing that the Office received a specification with pages 1-42 on November 13, 2001.

On June 20, 2002, the Office received a fax, with the missing pages of the application. The cover letter for the fax is not in the Image File Wrapper.

Neither "Response" addressed the statements made in the Notice to File Missing Parts, or that applicant was expected to file a petition within two months of the notice, or the application would be treated as having been filed without the missing pages. Nevertheless, in view of the statement that applicant was submitting a duplicate copy of the application with the "Response" and in view of the post card receipt showing that 43 pages of specification were filed on November 13, 2001, the "Response" is being treated as a petition under 37 CFR 1.182, and applicant's deposit account No. 04-1928 will be charged a $130.00 fee for the petition fee set forth in 37 CFR 1.17(h), fee code 1460, as authorized in the "Response." This fee will not be refunded because the "Response" was not filed within the non-extendable two-month period set in the Notice.

After this decision is mailed, the Office of Initial Patent Examination will be instructed to mail a corrected filing receipt, showing that the filing date of the application is November 13, 2001, as shown by the post card receipt.

Telephone inquiries related to this determination should be directed to the undersigned at (703) 306-3159.

Karin Ferriter

Karin Ferriter
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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PERKINS COIE LLP
PATENT-SEA
PO BOX 1247
SEATTLE, WA 98111-1247

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MAY 3 1 2006

OFFICE OF PETITIONS

In re Application of
Russell A. Martin
Application No. 10/047,772
Filed: January 15, 2002
Attorney Docket No. 594728109US

ON PETITION

This is a decision on the petition filed March 31, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned June 10, 2005 for failure to timely pay the issue fee on or before June 9, 2005, in response to the Notice of Allowance mailed March 9, 2005. Accordingly, a Notice of Abandonment was mailed August 29, 2005.

The issue fee and petition fee have been applied.

Additionally, the address on the petition differs from the address of record. The mere inclusion, in a paper filed in the application for another purpose, of an address differing from the previously provided correspondence address, does not constitute a proper change of address notification." See MPEP sections 601.03 and 711.02(c). Since the file does not indicate a change of address has been submitted, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
PERKINS COIE LLP
P.O. BOX2168
MENLO PARK, CA 94026

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P.O. Box 1450
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VAN LEEUWEN & VAN LEEUWEN
P.O. BOX 90609
AUSTIN TX 78709-0609

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JAN 31 2007

OFFICE OF PETITIONS

In re Application of :
Kevin S. **Barker**, et al. :
Application No. 10/047,784 : DECISION ON PETITION
Filed: January 14, 2002 :
Attorney Docket No. RSW920010051US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 22, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 17, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 18, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2192 to await the processing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Irvin Dingle
Petitions Examiner
Office of Petitions

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INTELLECTUAL PROPERTY / TECHNOLOGY LAW
PO BOX 14329
RESEARCH TRIANGLE PARK, NC 27709

Paper No. 12

In re Patent No. DALTON, MARTIN WALTER
Issue Date: September 2, 2003
Appl No.: 10/047,788
Filed: January 14, 2002
For: **REMOTE SHUT-OFF VALVE**

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed June 28, 2005 to correct inventorship under 37 CFR 1.324. The file record, including the request, is silent as to the existence of an assignee. It is presumed that no assignee exists (see MPEP 201.03(II)(D)).

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Eric Keasel
Supervisory Patent Examiner
Art Unit 3753
Technology Center 3700

Certificate
OCT 2 6 2006
of Correction

INTELLECTUAL PROPERTY / TECHNOLOGY LAW
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NEUSTEL LAW OFFICES, LTD.
2534 SOUTH UNIVERSITY DRIVE, SUITE 4
FARGO ND 58103

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OFFICE OF PETITIONS

In re Application of	:	
CALES, et al.	:	
Application No. 10/047,804	:	DECISION ON PETITION
Filed: January 14, 2002	:	TO WITHDRAW
Attorney Docket No. CALE-002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 4, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael S. Neustel, the sole attorney of record. Michael S. Neustel has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Shelia F. Cales at the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SHELIA F. CALES**
54 MAPLE STREET
FARMERSVILLE, OH 45325

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/047,804	01/14/2002	Shelia F. Cales	CALE-002

CONFIRMATION NO. 4749

OC000000022040142

65215
NEUSTEL LAW OFFICES, LTD.
2534 SOUTH UNIVERSITY DRIVE
SUITE 4
FARGO, ND 58103

Date Mailed: 01/18/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/04/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: James C. Fletcher	: DECISION ON REQUEST FOR
Patent Number	: 7603469	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/047,811	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/15/2002	: 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.

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BELL, BOYD & LLOYD, LLC
PO BOX 1135
CHICAGO IL 60690-113

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OFFICE OF PETITIONS

In re Application of
Glenn et al.
Application No. 10/047,819
Filed: January 14, 2002
Attorney Docket No. 112753-004

: DECISION GRANTING PETITION

This Office action is in response to applicant's submission of "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" timely[1] filed on May 26, 2005 requesting that the Office adjust the determination at the time of the allowance from a determination of one hundred and eighty-eight days to a determination of two hundred and two days.

Applicants request is **GRANTED**. The Office will adjust the PTA determination to reflect a determination of TWO HUNDRED AND TWO (202) DAYS.

Applicants assert that the Office erred in the assessment of a fourteen day reduction for the submission of an IDS on March 22, 2004. Applicants assert that the IDS submission occurred on May 10, 2002 not March 22, 2004. Applicants submitted a postcard receipt to reflect the receipt date in the Office. Applicants do not dispute the two hundred and thirty-five day Office delay pursuant to 37 CFR 1.702(a)(1) nor do applicants dispute the thirty-three day reduction for applicant delay pursuant to 37 CFR 1.705(b).

Applicants' arguments are persuasive. The record reflects that the IDS submission occurred on May 10, 2002 as suggested by applicant. Since such submission occurred prior to the first Office action and did not require the Office to submit a supplemental first action, the submission of such IDS is not considered a failure to engage in reasonable efforts to conclude prosecution of the action. Accordingly, the fourteen reduction in patent term is an error. The Office improperly entered the wrong submission date into the PALM record.

After the mailing of this Office action, the application will be forwarded to the Office of Patent

[1]Issue fee paid on May 26, 2005.

Publications for a prompt issuance of the patent. Any delays in the Office failure to issue the application within four months of the payment of the issue fee will be reflected in the issue notification letter that is mailed to applicants approximately three weeks prior to issuance

The Office has assessed the $200.00 fee under 37 CFR 1.18(e). No additional fees are required by this decision.

Any questions concerning this decision should be directed to Kery A. Fries, at 571-272-7757.

Kery Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

CC Adjusted PAIR calculation

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OFFICE OF PETITIONS

Bell, Boyd, & Lloyd, LLC
PO Box 1135
Chicago, Illinois 60690-1135

In re Application of
Glenn et al
Application No. 10/047819
Patent No. 7,032,626
Filed: January 14, 2002
Attorney Docket no: 755562/D/I

: DECISION GRANTING PETITION

This decision is in response to Patentees"APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)" timely filed on May 25, requesting that the Patent Term Adjustment be adjusted from a determination of 311 days to a determination of 431 days at the time of the issuance of the patent.

Patentees' petition is **GRANTED**. The Office will *sua sponte* issue a certificate of correction reflecting an adjustment of 431 days rather than the 311-day amount printed on the front of the patent. The Office will also adjust the PTA calculation reflected in PAIR to reflect this decision.

Patentees argue that the Office erred in asserting a one hundred twenty- day (120) reduction for the miscellaneous incoming letter filed on April 25, 2005. Applicants assert that the alleged miscellaneous incoming letter was in fact an application for patent term adjustment under 37 CFR 1.705(b) and accordingly should not have been considered a failure to engage in reasonable efforts to conclude prosecution of the application.

Applicants' argument have been considered and are deemed persuasive. A review of the file reflects that the "miscellaneous incoming letter" filed on May 26, 2005 was in fact the request for reconsideration of pTA under 37 CFR 1.705(b). The Office notes that under 37 CFR 1.704 (e) the submission of an application for patent term adjustment under § 1.705(b) (with or without request under § 1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section. Accordingly, the Office erred in assessing a one hundred and twenty-day reduction for the submission of the application for patent term adjustment. Accordingly, the correct amount of PTA at the time of mailing of the notice of allowance is 431 days as suggested by patentees.

Application No. 10/047,819

After mailing of this decision, this application will be forwarded to the certificate of correction branch for a prompt issuance of a certificate of correction.

The Office acknowledges the receipt of $200.00 for the application for patent term adjustment (petition). The Office has assessed the $200.00 fee under the deposit account and has cashed the $200.00 check. However, since the reason for the submission of the petition under 37 CFR 1.705(d) is solely the reduction for PTA under 37 CFR 1.705(b) the Office will not assess any fee. $400.00 will be refunded to patentees by way of crediting deposit account 02-1818.

Any questions concerning the issuance of this patent should be directed to Kery A. Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted Pair Calculation
Draft Certificate of Correction

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KODA & ANDROLIA
2029 CENTURY PARK EAST
SUITE 1140
LOS ANGELES, CA 90067

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OFFICE OF PETITIONS

In re Application of	:	
Jason R.Thompson, et al.	:	
Application No. 10/047,827	:	ON PETITION
Filed: October 29, 2001	:	
Attorney Docket No. D5110	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 17, 2005, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned for a failure to respond to a final Office action mailed December 23, 2004. It is noted that an Appeal Brief was filed on March 26, 2004 without first filing a Notice of Appeal and appeal fee under 37 CFR 41.20(b)(1)). A Notice of Abandonment was mailed December 23, 2004. In response on February 17, 2005, the present petition was filed. Petitioners request, in effect, a Notice of Appeal and include a copy of the Appeal Brief filed March 26, 2004.

The appeal fee required under 37 CFR 41.20(b)(1) is being charged to counsel's deposit account as authorized.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

This application is being forwarded to Technology Center AU 3616.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 5

Robert P. Tassinari, Jr.
Intellectual Property Law Dept.
IBM Corporation
PO Box 218
Yorktown Heights, NY 10598

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
L. D. Bergman et al. :
Application No. 10/047,854 :
Filed: January 16, 2002 :
Attorney Docket No. YOR920010076US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed March 19, 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 20, 2002.

The application 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

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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THELEN REID & PRIEST LLP
P O BOX 640640
SAN JOSE, CA 95164-0640

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In re Application of	:	
Victor Batinovich	:	
Application No. 10/047,858	:	DECISION GRANTING PETITION
Filed: January 14, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. AIS-P1208 (033391-011)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 7, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 29, 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 November 30, 2003. A Notice of Abandonment was mailed on March 9, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the $750 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of August 29, 2003 is accepted as having been unintentionally delayed.

The above-identified application has been abandoned for an extended period of time. The U.S. 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 U.S. Patent and Trademark Office).

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $510 extension of time submitted with the petition on April 7, 2006

was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2839 for appropriate in the normal course of business on the reply received April 7, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,669,695	2003-12-30	10047867	2002-01-15	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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	/Eugenio J. Torres-Oyola/	Date (YYYY-MM-DD)	2008-10-07
Name	Eugenio J. Torres-Oyola	Registration Number	47141

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. 6669695
Issue Date: December 30,2003
Application No. 10047867
Filed: January 15,2002
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 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 October 7,2008 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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CHRISTOPHER DEVRIES
General Motors Corporation
Legal Staff, Mail Code 482-C23-B21
P.O. Box 300
Detroit MI 48265-3000

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OFFICE OF PETITIONS

In re Application of	:	
Zhou et al.	:	
Application No. 10/047,878	:	DECISION ON PETITION
Filed: January 17, 2002	:	
Attorney Docket No. GP-300898	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on September 9, 2005, to revive the above-identified application.

This application became abandoned for failure to properly and timely reply to the final Office Action mailed November 30, 2004, which set a three (3) month shortened statutory period for reply. On February 25, 2005, petitioner filed an amendment. On March 14, 2005, the examiner mailed an Advisory Action to petitioner stating that petitioner's response of February 25, 2005, to the final Office action had been considered but was not deemed to place the application in condition for allowance. Additionally, the Advisory Action informed petitioner that the period for response continued to run three (3) months from the final Office action of November 30, 2004. Because petitioner did not submit a proper and timely reply to the final Office action or request any extensions of time to respond, the application became abandoned on March 1, 2005. On July 22, 2005, the Office mailed a Notice of Abandonment.

On July 13, 2005, petitioner submitted a Notice of Appeal with the required fee and a request for an extension of time for response within the second month with a $450.00 fee. However, the Notice of Appeal and the request for an extension of time for response were improper because petitioner submitted them beyond the six (6) month maximum period allowable by statute to reply to the final Office action of November 30, 2004 (*i.e.* May 30, 2005). Therefore, petitioner's Notice of Appeal was not entered.

On September 9, 2005, petitioner filed the present petition, a copy of the previously filed Notice of Appeal, and an authorization to charge the Deposit Account for the petition fee. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner

submitted the required reply in the form of a Notice of Appeal, paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition is **granted.**

Petitioner must file an appeal brief within two months from the mailing date of this decision.

As previously stated, the $450.00 extension of time fee is inappropriate. Therefore, the $450.00 fee will be applied towards the outstanding petition fee of $750.00. The balance due of $300.00 will be charged to the Deposit Account.

This matter is being referred to Technology Center Art Unit 2834.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

PETDEC

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

JUN - 9 2004

In re Application of	:	
Paul R. Gray	:	NOTICE OF WITHDRAWAL
Serial No. 10/047883	:	FROM ISSUE
Filed: May 29, 2003	:	UNDER 37 CFR 1.313
For: HAMMER WITH PROTECTIVE POCKET	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313. (b).

The above-identified application is hereby withdrawn from issue to permit reopening. An office action from the examiner will follow in due course.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Ric Crispino at (571) 272-1226.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Thomas L. Adams
120 Eagle Rock Avenue
P.O. Box 340
East Hanover NJ 07936

CC: Allowed Files

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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

JUN - 9 2004

In re Application of	:	
Paul R. Gray	:	NOTICE OF WITHDRAWAL
Serial No. 10/047883	:	FROM ISSUE
Filed: May 29, 2003	:	UNDER 37 CFR 1.313
For: HAMMER WITH PROTECTIVE POCKET	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313. (b).

The above-identified application is hereby withdrawn from issue to permit reopening. An office action from the examiner will follow in due course.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Ric Crispino at (571) 272-1226.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Thomas L. Adams
120 Eagle Rock Avenue
P.O. Box 340
East Hanover NJ 07936

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JUN 18 2004
OIPE / JC45

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DAVID M. GRYTE
HARNESS, DICKEY & PIERCE, P.L.C.
7700 BONHOMME
SUITE 400
ST. LOUIS MO 63105

COPY MAILED

APR 1 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Gao, et al.	:	
Application No. 10/047,902	:	ON PETITION
Filed: January 14, 2002	:	
Attorney Docket No. 6239.N CP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 15, 2006, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed October 27, 2005. Accordingly, this application became abandoned on January 28, 2005. A Notice of Abandonment was mailed on March 7, 2006.

Applicants have submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the October 27, 2005 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

This application is being forwarded to the Office of Publications for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

MARTIN NOVACK
ATTORNEY FOR APPLICANT
17414VIA CAPRI EAST
BOCA RATON, FL 33496

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JUL 1 1 2002

OFFICE OF PETITIONS

In re Application of :
Weiping Li, et al :
Application No. 10/047,910 : ON PETITION
Filed: November 9, 2001 :
Attorney Docket No. WCT-7303 :

This is a decision on the petition filed May 14, 2002, to accept drawing Figure 4 as asserted to have been present on filing of the above-identified application.

The petition is **granted**.

The application was deposited on November 9, 2001. However, on March 7, 2002, the Office of Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application," stating that a drawing of Figure 4 described in the specification was omitted from the application.

In response, on May 14, 2002, the present petition and requisite petition fee were filed. Petitioner argues that four (4) sheets of drawings were included with the application papers deposited on November 9, 2001. As evidence thereof, petitioner, submitted a copy of his postcard receipt which acknowledges receipt of four (4) sheets of drawings on November 9, 2001. A copy of one sheet of drawing containing Figure 4 was also submitted.

A review of the application file uncovers three (3) sheets of drawings deposited November 9, 2001, with no sheet containing a drawing of Figure 4 present among the application papers.

MPEP 503 states that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, the evidence support the fact that four (4) sheets of drawings one of which contain Figure 4 were in fact present on filing.

Since the one (1) sheet of drawing containing Figure 4 cannot be located in the Office, the copy of the one (1) sheet of drawing containing Figure 4 submitted with the petition will be used for processing and examination purposes.

Also, since the petition was a result of PTO error, the $130.00 petition fee is being refunded.

This application is being returned to the Office of Initial Patent Examination Division for further processing using the one (1) sheet of drawing filed May 14, 2002, and an indication on the bibliographic data sheet that four (4) sheets of drawings were included on filing.

Telephone inquiries concerning this matter may be directed to Karen Creasy at (703) 305-8859.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: Thad Kroon	: DECISION ON REQUEST FOR
Patent Number	: 7653590	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/047,917	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/14/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1714** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JOHN R. CASPERSON
PO BOX 2174
FRIENDSWOOD TX 77549

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SEP 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Binie V. Lipps et al	:	
Application No. 10/047,945	:	ON PETITION
Filed: January 14, 2002	:	
Attorney Docket No. FWLPAT015US	:	

This is a decision on the petition, filed September 18, 2007, under 37 CFR 1.181(a) to Withdraw Holding of Abandonment.

The petition under 37 CFR 1.181(a) is **GRANTED**.

The Notice of Abandonment mailed August 29, 2007 was prematurely mailed.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1644.

Karen Creasy
Petitions Examiner
Office of Petitions

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JOHN R. CASPERSON
P.O. BOX 2174
FRIENDSWOOD TX 77549

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of	:
Binie V. Lipps et al	:
Application No. 10/047,945	: DECISION GRANTING PETITION
Filed: January 14, 2002	: UNDER 37 CFR 1.137(b)
Attorney Docket No. FWLPAT015US	:

This is a supplemental decision on the petition filed September 18, 2007. This petition is being considered under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED** as Moot.

A decision on a request to withdraw the holding of abandonment filed September 18, 2007 was granted on September 26, 2007.

In view of the granting of the request on September 26, 2007, the petition under 37 CFR 1.137(b) is dismissed as moot. Petitioner may request a refund of the petition fee ($750) by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 9, 2006

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/047982 Patent No.: 7,013,450 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. *110*

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

JACK CHIANG
SUPERVISORY PATENT EXAMINER

2825

SPE **Art Unit**

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CLAIRVOYANTE, INC.
874 GRAVENSTEIN HIGHWAY SOUTH, SUITE 14
SEBASTOPOL, CA 95472

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FEB 08 2005

OFFICE OF PETITIONS

In re Application of :
Candice Hellen Brown Elliott :
Application No. 10/047,995 :
Filed: January 14, 2002 :
Attorney Docket No. CLRV-007 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed November 30, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This is a decision on the petition, filed November 30, 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 months publication country on April 25, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months 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 May 19, 2005 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Retta Williams at (571) 272-3229.

This application matter is being forwarded to Technology Center Art Unit 2673 for examination in due course.

Marianne C. Jenkins

Marianne Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Communication Regarding Rescission of Nonpublication Request

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Director's Office
Group 3700

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Paper No. 24

In re Application of
LEE ET AL.
Appl No.: 10/048,020
Filed: March 11, 2002
For: DISCHARGE VALVE APPARATUS FOR RECIPROCATING COMPRESSOR
Attorney Docket Number: 0630-1417P

DECISION GRANTING PETITION
37 CFR 1.181

This application is before the Director of Technology Center 3700 for reconsideration of the Notice of Abandonment mailed February 18, 2004 for failure to timely file corrected drawings required by the Notice of Allowance mailed September 3, 2003 In view of petitioner's statements, the submission is being treated as a petition under 37 CFR 1.181. No fee is required for this petition.

A review of the file indicates that the Notice of Allowance stated that corrected drawings must be submitted. Applicant timely filed a response on November 21, 2003, which is considered a bona fide attempt to respond to the requirement. The office mailed a paper on January 15, 2004 responding to applicant's bona fide attempt to respond to the drawing requirements. Applicant timely filed formal corrected drawings within one month on February 9, 2004. Applicant has filed a copy of the response with a stamped postcard receipt dated February 9, 2004.

In view of the above, the Notice of Abandonment mailed February 18, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. There are no outstanding requirements and the application will be forwarded to the Office of Publications to issue in due course.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

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PHILIPS INTELLECTUAL PROPERTY &
STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

In re Application of	:
Wolter Ten Hoeve et al	:
Application No. 10/048,040	: DECISION GRANTING PETITION
Filed: January 24, 2002	: UNDER 37 CFR 1.137(b)
Attorney Docket No. NL010357	:

This is a decision on the petition under 37 CFR 1.137(b), filed February 7, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Ex Parte Quayle Action of September 27, 2005, is accepted as having been unintentionally delayed.

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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1713.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

15 JUL 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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Sughrue Mion, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

In re Application of	:	
Garcia et al.	:	
US Application No.: 10/048,056	:	
PCT Application No.: PCT/FR00/02149	:	
International Filing Date: 26 July 2000	:	DECISION ON PETITION
Priority Date: 29 July 1999	:	UNDER 37 CFR 1.181
Attorney's Docket No.: Q68190	:	
For: A DISPENSER HAVING A HINGED	:	
DISPENSING HEAD	:	

This decision is in response to the "Request to Revive Application" filed on 22 November 2002, asserting timely response to a USPTO correspondence, which is being properly treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-referenced application.

BACKGROUND

On 9 April 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905), advising Applicants that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) was required. An extendable 2-month reply period was provided. No response was filed on or before 9 November 2002, and no extension of time in accordance with 37 CFR 1.136(a) was obtained. The application was held abandoned as of 10 June 2002. A Notice of Abandonment (Form PCT/DO/EO/909) was mailed on 15 November 2002.

The instant petition asserts that a declaration was filed on 9 October 2002 along with a 4-month extension of time and the requisite fee. In support, the petition is accompanied by a copy of counsel's postcard receipt for the instant application, date-stamped "9 October 2002" by the USPTO, indicating that on that day, the USPTO received, *inter alia*, an executed declaration and power of attorney.

DISCUSSION

The USPTO records, consistent with counsel's postcard receipt, indicate receipt on 9 October 2002 of: a $1,440 check for the 4-month extension of time; a declaration and power of attorney executed by both inventors; and a $130 check for paying the surcharge for late filing of an oath/declaration. Apparently, these items were not matched with the file until recently.

CONCLUSION

In view of the above, the petition to withdraw the holding of abandonment in this application is **GRANTED.**

The Form PCT/DO/EO/909 mailed on 15 November 2002 is hereby **VACATED.**

However, the declaration submitted with the instant petition is defective, in that, the signature block of the first named inventor, Firmin Garcia, contains a signature that is apparently crossed-out. Alterations to the declaration must be initialed and dated. 37 CFR 1.52(c)(1); MPEP 605.04(a) (Rev. 1, Feb. 2003). Applicants are hereby given **ONE MONTH** from the mailing date of this decision to cure this defect by submitting a proper oath/declaration to avoid abandonment of this application. This time period is extendable under 37 CFR 1.136(a).

Any further correspondence with respect to this matter, deposited with the United States Postal Service, should be addressed to:

Mail Stop PCT
Commissioner for Patents
Office of PCT Legal Administration
PO Box 1450
Alexandria, VA 22313-1450

Boris Milef
PCT Legal Examiner
PCT Legal Office

RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

20 SEP 2004

#9

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Sughrue Mion, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

In re Application of	:	
Garcia et al.	:	
Application No.: 10/048,056	:	
PCT No.: PCT/FR00/02149	:	
Int. Filing Date: 26 July 2000	:	DECISION
Priority Date: 29 July 1999	:	
Attorney Docket No.: Q68190	:	
For: A Dispenser Having A	:	
Hinged Dispensing Head	:	

This is in response to applicants' "Response To Decision On Petition Under 37 CFR. 1.181..." filed on 17 October 2003.

DISCUSSION

In a Decision mailed on 15 July 2003, the declaration filed on 09 October 2002 was said to be defective because "the signature block of the first-named inventor, Firmin Garcia, contains a signature that is apparently crossed out. Alterations to the declaration must be initialed and dated. 37 CFR 1.52(c)(1); MPEP 605.04(a)(Rev. 1, Feb. 2003)." In response, counsel has provided a newly executed declaration of the inventors which is in compliance with 37 CFR 1.497(a) and (b).

DECISION

The declaration filed on 17 October 2003 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **17 October 2003**.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
After 30 Sep. 2004: (571) 272-3283
Fax: (703) 308-6459
After 30 Sep. 2004: (571) 273-0459

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WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington, DC 20005-1503

Mail Date: 04/20/2010

Applicant	: Norihito Shimono	: DECISION ON REQUEST FOR
Patent Number	: 7604820	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/048,063	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **215** 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.

31 MAR 2004

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Paul M. Vargo
Welsh & Katz, Ltd.
120 South Riverside Plaza, 22nd Floor
Chicago, IL 60606

In re Application of	:	
Matthewson	:	
Application No. 10/048,076	:	
PCT No.: PCT/GB00/03171	:	
Int. Filing Date: 16 August 2000	:	DECISION
Priority Date: 16 August 1999	:	
Atty. Docket No.: FNL6318P0020US	:	
For: Information Coding Techniques	:	

This is in response to the "Renewal of Petition..." filed on 15 May 2003 and the "Petition To Reinstate Application Pursuant To 37 CFR § 1.181" filed on 09 December 2002.

BACKGROUND

This international application was filed on 16 August 2000, claimed an earlier priority date of 16 August 1999, and designated the U.S. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. The International Bureau transmitted a copy of the published international application to the USPTO on 22 February 2001. The 30 month time period for paying the basic national fee in the United States expired at midnight on 16 February 2002.

On 23 January 2002, applicants filed *inter alia* the basic national fee.

On 26 April 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant, requiring the submission of an executed oath or declaration of the inventors.

On 15 November 2002. A Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant, indicating that this application had become abandoned with respect to the United States for failure to timely reply to the 26 April 2002 Notification of Missing Requirements.

DISCUSSION

Petitioner requests that the holding of abandonment be withdrawn because a reply to the Notification of Missing Requirements was allegedly filed on 02 June 2002. In support of this allegation, petitioner presents a copy of a return postcard receipt itemizing *inter alia* an "executed Declaration for Utility of Design Patent Application" and stamped as "Rec'd

PCT/PTO 02 JUN 2002."

MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Pursuant to that practice, the declaration of the inventor filed on 15 May 2003 is being accepted as a copy of the declaration originally filed on 02 June 2002. As such, it would be appropriate to conclude that applicant timely replied to the Notification of Missing Requirements mailed on 26 April 2002; therefore, said Notification of Missing Requirements is hereby **VACATED**.

DECISION

The petition is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. The application has an international filing date of 16 August 2000 under 35 U.S.C. 363 and a date under 35 U.S.C. 371(c)(1), (2) and (4) of **02 June 2002**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

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John F Hoffman
Baker & Daniels
111 East Wayne Street
Suite 800
Fort Wayne, IN 46802

Mail Date: 04/21/2010

Applicant	: Rainer Hillebrand	: DECISION ON REQUEST FOR
Patent Number	: 7596645	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/048,114	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/05/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **413** 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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John F Hoffman
Baker & Daniels
111 East Wayne Street
Suite 800
Fort Wayne, IN 46802

Mail Date: 05/18/2010

Applicant : Rainer Hillebrand
Patent Number : 7596645
Issue Date : 09/29/2009
Application No : 10/048,114
Filed : 03/05/2002

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **508** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

COPY MAILED

JUN 28 2007

OFFICE OF PETITIONS

In re Application of

GIECK, Reiner
Application No. 10/048,119
Filed: June 10, 2002
Attorney Docket No. **449122022600**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 11, 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 Deborah S. Gladstein on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed June 11, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **REINER GIECK**
NIMRODSTRASSE 26
GERMERING, GERMANY 82110

cc: **KEVIN SPIVAK, BELL BOYD & LLOYD LLC**
1615 L STREET, N.W.
SUITE 1200
WASHINGTON, DC 20036-5625

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Paper No. 04122005

Edward F. Murphy
Corning Incorporated
SP-IT-03
Corning, NY 14831

APR 15 2005

In re Application of:	:	DECISION VACATING CORRECTED
Davis *et al.*	:	NOTICE OF ALLOWANCE AND
Application No. 10/048,138	:	FEE(S) DUE
Filed: January 22, 2002	:	
Attorney Docket No. SP00-191	:	

The above-identified application is before the Group Director of Technology Center 2800 for review. This is also a response to applicant's telephone inquiry of March 23, 2005.

The Corrected Notice of Allowance and Fee(s) Due mailed March 10, 2005, is hereby vacated.

A review of the application file records reveals that a Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed on February 20, 2004, and that the issue fee was timely paid on April 20, 2004. In response to an inter Office query identifying a minor typographical error in claims 17 and 26, the examiner mailed a Supplemental Notice of Allowability with an examiner's amendment correcting the identified error on March 10, 2005. The Office also inadvertently mailed a Corrected Notice of Allowance and Fee(s) Due on March 10, 2005. The Corrected Notice of Allowance was mailed in error and therefore is appropriately **vacated**.

Telephone inquiries regarding this decision should be directed to Ed Glick, Supervisory Patent Examiner, at (571) 272-2490.

The above-identified application is being forwarded Office of Publications for prompt issuance of a patent.

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/048143

Paper No.: ____

DATE : 1/19/06

TO SPE OF : ART UNIT 3637

SUBJECT : Request for Certificate of Correction on Patent No.: 6969133 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.

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

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:

Lanna Mai
SPE

3637
Art Unit

PET DEC

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FEB 19 2004

Paper No. Feb. 5. 2004

In re Serial No. 10/048,170 KUNO ET AL.

Appl No.: 10/048,170
Filed: April 26, 2002
For: METHOD FOR PRODUCTION OF CERAMIC PRODUCT AND CERAMIC PRODUCT

DECISION GRANTING PETITION
37 CFR 1.181

This is a decision on the petition filed November 7, 2003 in accordance with 37 CFR 1.181(a)(3) to compel consideration by the examiner of her Comments on Statements of Reasons for Allowance.

In the petition, applicant raised two issues of concern. First, applicant was concerned that the examiner's statement that "it is understood that as the phrase "maximum internal friction, represented by the natural logarithm of the inverse of said internal friction, equals to 1×10^{-3}" is understood "1×10^{-3}" represents the highest acceptable internal friction, even though the magnitude of log Q-1 is the lowest acceptable number (i.e., acceptable log Q-1 numbers would be 2×10^{-3} or 1×10^{-2})" is unclear, as it appears to indicate that the only acceptable numbers are 2×10^{-3} or 1×10^{-2}.

Second, applicant was concerned that the examiner's characterization of the second paragraph of page 11 of the specification indicated that the second paragraph referred to the body before the infiltration of resin. Applicant submitted that the second paragraph also referred to the final product after infiltration of the resin.

Regarding the first issue, it is noted that the term "i.e." in that statement should have been "e.g.". The use of the numbers 2×10^{-3} and 1×10^{-2} in the statement were only meant as exemplary, and were not the only possible acceptable values.

Regarding the second issue, Mr. Pous, an attorney for applicant, was contacted by SPE Shrive Beck on February 4, 2004 to discuss this issue and seek clarification. As a result of the discussion held, the applicant agreed to the following amendment to the specification: to amend page 11, line 17, to change "least" to "most". This change satisfies both applicant's and the examiner's concerns with respect to this portion of the specification.

The petition is GRANTED.

JMStone

Jacqueline Stone
Director
Technology Center 1700

OBLAN, SPIVAK, McCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Pape

DATE : 3-17-05

TO SPE OF : ART UNIT 3742

SUBJECT : Request for Certificate of Correction on Patent No.: 6841753

A response is requested with respect to the accompanying request for a certificate of co

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, sho patent read as shown in the certificate of correction? No new matter should be introduced, r the scope or meaning of the claims be changed.

Please check claims

Thank You For Your Assistance

Certificates of Correction

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
- ☐ Denied — State the reasons for denial below.

Comments:

SPE

A

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Pape

DATE : 3-17-05

TO SPE OF : ART UNIT 3742

SUBJECT : Request for Certificate of Correction on Patent No.: 6841753

A response is requested with respect to the accompanying request for a certificate of co

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, sho patent read as shown in the certificate of correction? No new matter should be introduced, r the scope or meaning of the claims be changed.

Please check claims

Thank You For Your Assistance

C Young
Certificates of Correction

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
- ☐ Denied — State the reasons for denial below.

Comments:

Examiner is agreed with applicant's remark.
QV

Robin D. Evans
SPE

3742
A

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and

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GRIFFIN & SZIPL, PC
SUITE PH-1
2300 NINTH STREET, SOUTH
ARLINGTON, VA 22204

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OFFICE OF PETITIONS

In re Application of	:	
Shinji Furusho	:	
Application No. 10/048,231	:	DECISION ON APPLICATION
Filed: January 28, 2002	:	FOR
Atty Docket No. KUBOTA 0006	:	PATENT TERM ADJUSTMENT
	:	

This is a decision on the "APPLICATION TO REVISE THE AMOUNT OF PATENT TERM ADJUSTMENT GRANTED IN THIS APPLICATION, UNDER 37 C.F.R. § 1.705," filed July 7, 2005. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from four hundred forty-three (443) days to eight hundred sixty-seven (867) days.

The application for patent term adjustment is **DISMISSED**.

On April 7, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 443 days. On July 7, 2005, applicant timely submitted an application for patent term adjustment (with required fee[1]). Applicant disputes the period of adjustment for Office failure to mail a first action under 35 U.S.C. 132. Applicant asserts that the period should be calculated as 925 days, counting from the day after the application was filed in the United States.

The record supports a conclusion that the patent issuing from the application is not subject to a terminal disclaimer.

---

[1] PALM records show that the Issue Fee was also received on July 7, 2005.

A review of the application history confirms that the number of days in the period of adjustment pursuant to § 1.703(a)(1) for the Office's mailing of a first action under 35 U.S.C. 132 on August 10, 2004, is 501 days. This period is counted beginning on the day after the date that is fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371, March 29, 2003, and ending on the date of the mailing of the first action under 35 U.S.C. 132, August 10, 2004. Applicant erred in calculating this period as they used a beginning date of January 29, 2002, the next day after the application fulfilled the requirements of 35 U.S.C. 371.

Given the undisputed reduction of 58 days, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is four hundred forty-three (443) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

APR 17 2002

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Elizabeth M. Wieckowski
KENYON & KENYON
One Broadway
New York, New York 10004

In re Application of	:	
WRIGHT et al.	:	
Application No.: 10/048,302	:	DECISION ON PETITION
PCT No.: PCT/US00/16759	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 16 June 2000	:	
Priority Date: 16 June 1999	:	
Attorney Docket No.: 12346/46602	:	
For: RETRO-INVERSO PEPTIDES DERIVED FROM INTERLEUKIN-3		

The petition to revive under 37 CFR 1.137(b) filed 25 January 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted the basic national fee of $365 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $65 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith

Anthony Smith
Attorney-Advisor
PCT Legal Office
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

APR 1 8 2002

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WASHINGTON, D.C. 20231
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Elizabeth M. Wieckowski
KENYON & KENYON
One Broadway
New York, New York 10004

In re Application of David E. WRIGHT, et al. Application No.: 10/048,305 PCT No.: PCT/us00/40227 Int. Filing Date: 16 June 2000 Priority Date: 16 June 1999 Attorney Docket No.: 12346/46702 For: RETRO-INVERSO PEPTIDES DERIVED FROM INTERLEUKIN-6	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 25 January 2002 in the above-captioned application is hereby **GRANTED** as follows:

The appropriate petition fee for a small entity as required by 37 CFR 1.17(m) has been submitted.

All of the requirements of 37 CFR 1.137(b) for revival have been submitted. Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements under 37 CFR 1.137(b)(3).

A review of the application papers reveals that no declaration of the inventors was provided.

Applicants' claim for priority is acknowledged. The application has an international filing date of **16 June 2000** under 35 U.S.C. 363.

The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The application is being forwarded to the United States Designated/Elected Office for issuance of a Notification of Missing Requirements under 35 U.S.C. 371(c) and 37 CFR

1.495 (Form PCT/DO/ EO/905) to inform applicants that a declaration of the inventors in compliance with 37 CFR 1.497 along with a surcharge for submitting a declaration after 30 months from the priority date must be filed in order to avoid abandonment of the application as to the national stage in the United States.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

NNH/RC:hn

Tel: (703) 308-6508

APR 0 5 2002

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Elizabeth M. Wieckowski
Kenyon & Kenyon
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New York, New York 10004

In re Application of WRIGHT, et al. Application No.: 10/048,307 PCT No.: PCT/US00/16760 Int. Filing Date: 16 June 2000 Priority Date: 16 June 1999 Attorney Docket No.: 12346/46802 For: RETRO-INVERSO PEPTIDES DERIVED FROM LEUKEMIA INHIBITORY FACTOR	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 25 January 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply, (which in this case was the filing of the U.S. national stage application transmittal papers), until the filing of this petition pursuant to 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted the basic national fee of $355.00 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration is required.

Derek A. Putonen
Attorney-Advisor
PCT Legal Office
Telephone: (703) 305-0130
Facsimile: (703) 308-6459

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BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO IL 60610

In re Kinoshita, et al. Application No. 10/048,326 Filed: January 25, 2002 Attorney Docket No. 9683-101	DECISION REGARDING PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b)", filed July 28, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred sixty-seven (567) days to five hundred seventy-four (574)days.

The application for patent term adjustment is **DISMISSED**. The office notes that applicants filed the petition after payment of the issue fee payment. See 37CFR 1.705(b)

On April 28, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is five hundred sixty-seven (567) days. On July 28, 2006, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is five hundred seventy-four (574) days.

Applicants fail to state whether the application is subject to a terminal disclaimer.

---

[1] Applicants filed the application for patent term adjustment together with the payment of the issue fee.

The Office determined a patent term adjustment of five hundred sixty-seven (567) days based on an adjustment for PTO delay of six hundred sixty-five (665) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicants' delays of ninety-one (91) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b), and seven (7) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(c)(8). The adjustment of seven (7) days is at issue.

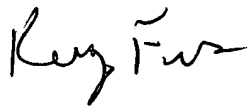
A review of the application file reveals that applicants filed an Information Disclosure Statement (IDS) on April 6, 2006, after they had previously filed an Amendment on March 30, 2006. § 1.704(d) states that an IDS will not be considered a failure to engage under (c)(8) if it is accompanied by a statement 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 IDS filed on April 6, 2006 did not contain a proper 37 C.F.R. § 1.704(d) statement, because it lacked the language of "first cited". Accordingly, applicant delay with respect to this filing should have been seven (7) days.

In view thereof, the correct determination of patent term adjustment at the time of mailing of the Notice of Allowance is **five hundred sixty-seven (567) days**.

Receipt of the fee under 37 C.F.R. § 1.18(e) is acknowledged.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.



Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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[2] Emphasis added.

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P.O. Box 1450
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PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

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FEB 17 2006

OFFICE OF PETITIONS

In re Patent No. 6,761,844	:	
Issued: July 13, 2004	:	
Application No. 10/048,332	:	ON PETITION
Filed: January 25, 2002	:	
Attorney Docket No. GFP01 P-313	:	

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) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

#7

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25 AUG 2003

Honeywell International
101 Columbia Road
Morristown, New Jersey 07962

In re Application of
MUNSTERHUIS, Wim :
Application No.: 10/048,372 :
PCT No.: PCT/EP01/05694 :
Int. Filing Date: 18 May 2001 : DECISION
Priority Date: 25 May 2000 :
Atty. Docket No.: 722-26656US :
For: CONTROL MEANS FOR GAS BURNERS :

This is a response to applicant's "Letter to Examiner" filed 10 July 2003, which is being treated as a request under 37 CFR 1.181.

BACKGROUND

On 18 May 2001, applicants filed the above-captioned international application, which claimed a priority date of 25 May 2000 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 November 2001. The international application named Wim Munsterhuis as an applicant/inventor.

On 25 January 2002, applicant filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee of $890; an English translation of the international application; and a unexecuted declaration.

On 18 April 2002, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e).

On 29 August 2002, applicant filed an executed declaration; a petition and requisite fee for a three-month extension of time; and the $130 surcharge for filing a declaration after twenty/thirty months from the priority date. The declaration listed Sybrandus B. Munsterhuis as the sole inventor.

On 21 April 2003, the United States Designated/Elected Office mailed a Notification of Defective Response (PCT/DO/EO/916) indicating that the declaration filed 29 August 2002 "does not state the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor of the subject matter which is claimed and for which a patent is sought" and that a new oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required.

On 10 July 2003, applicant filed "Letter to Examiner."

DISCUSSION

A review of the application file, including applicant's statements in "Letter to Examiner" reveals that the declaration identifies a different inventor than that indicated in the published international application. Namely, the declaration identifies and is signed by "Sybrandus Munsterhuis" whereas the international application identifies "Wim Munsterhuis." In that this is clearly more than a mere typographical error, transliteration, or a phonetic misspelling of applicant's name, a proper petition under 37 CFR 1.182 is required in order to resolve the matter. Such a petition must be accompanied by the requisite petition fee of $130 as well as verified statements from the inventor and any other persons having firsthand knowledge of the error. These statements must set forth the specific circumstances as to how and when the error was made and discovered, and must also set forth that the mistake was an inadvertent error without deceptive intent.

CONCLUSION

For the reasons above, the request is **DISMISSED** without prejudice.

If reconsideration of this decision is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Petition Under 37 CFR 1.182", and must include the requisite petition fee and an acceptable explanation of the facts as discussed above. Failure to file a proper response in a timely manner will result in ABANDONMENT of the application.

Please direct further correspondence with respect to this matter to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Fax: 703-308-6459

09 DEC 2003

#9

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Honeywell International
101 Columbia Road
Morristown, New Jersey 07962

In re Application of	:	
MUNSTERHUIS, Wim	:	
Application No.: 10/048,372	:	
PCT No.: PCT/EP01/05694	:	
Int. Filing Date: 18 May 2001	:	DECISION
Priority Date: 25 May 2000	:	
Atty. Docket No.: 722-26656US	:	
For: CONTROL MEANS FOR GAS BURNERS	:	

This is a decision on applicant's "Petition under 37 CFR 1.182" filed in the Patent and Trademark Office (PTO) on 28 October 2003. Applicant is requesting to change the name of the inventor from Wim Munsterhuis to Sybrandus Munsterhuis. The petition was accompanied by an affidavit signed by Sybrandus Munsterhuis.

DISCUSSION

As stated in the previous Decision, the Manual of Patent Examining Procedure at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order. The petition has been reviewed and is approved. The declaration submitted on 29 August 2002 is accepted.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Wim Munsterhuis to Sybrandus Munsterhuis is **GRANTED**.

The application has an international filing date of 18 May 2001 under 35 U.S.C. 363 and a date of **29 August 2002** under 35 U.S.C. 371(c). This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

08 OCT 2002

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OSTROLENK, FABER, GERB & SOFFEN
1180 Avenue of the Americas
New York, NY 10036-8403

In re Application of
PRESCOTT, Neal, et. al.
U.S. Application No.: 10/048,379
PCT No.: PCT/GB00/02872
International Filing Date: 28 July 2000
Priority Date: 28 July 1999
Attorney's Docket No.: P/3203-18
For: THERMALLY INSULATED PIPELINES

DECISION

This decision is issued in response to applicants' "Response To Notification Of Missing Requirements" filed 18 June 2002. In this Response, applicants assert that materials responsive to the Notification Of Missing Requirements, that is, a declaration and surcharge, were previously filed on 19 April 2002.

A review of the application file confirms the presence of the originally filed declaration with a receipt stamp dated 29 April 2002, and USPTO records also confirm receipt of the $130 surcharge payment.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing. The 35 U.S.C. 371 date is 29 April 2002.

Applicants' "Petition For Retroactive License Under 37 CFR 5.25" will be treated in separate correspondence.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

RMR/LS:rmr

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/048,379	2/27/02	PRESCOTT, ET AL.	p/3203-18

Title: **THERMALLY INSULATED PIPELINES**

Art Unit	Paper Number

Correspondence Address:
ROBERT C. FABER
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

PATENT & TRADEMARK OFFICE
MAILED
SEP 03 2004
LICENSING & REVIEW

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 533,162

Grant Date: 03-Sep-04

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved:

for Commissioner of Patents and Trademarks

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such application or applications.

This license does not empower the filing of any applications, amendments, supplements or continuances originating in this country which disclose inventions, modifications, or variations not disclosed in the subject matter identified above.

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Office of Foreign Assets Control, Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminsttration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
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Robert C. Faber
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York, New York 10036-8403

In re:	Prescott et al	:	DECISION ON REQUEST
Serial No.:	10/048,379	:	UNDER 37 CFR 5.25
Filing date:	April 29, 2002		
Docket No:	P/3203-18		

Title: THERMALLY INSULATED PIPELINES

In view of the communication(s) filed February 4, 2004, it has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filings listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought after discovery of the proscribed foreign filing, and that the material was filed abroad without the required license under 37 C.F.R. 5.11 first having been obtained through error and without deceptive intent.

Country	Date
United Kingdom	July 28, 1999
PCT	July 28, 2000
EPO	January 17, 2002
OAPI	January 25, 2002

Approved:

Ian Lobo

Ian J. Lobo
Patent Examiner
Group 3600
(703) 306-4161

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 06/02/2010

Applicant	: John Mansbridge	: DECISION ON REQUEST FOR
Patent Number	: 7623795	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/048,400	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/06/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1417** 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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Finnegan Henderson Farabow Garrett & Dunner LLP
901 New York Avenue, NW
Washington DC 20001-4413

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OFFICE OF PETITIONS

In re Application of
Cahalan
Application No. 10/048,408
Filed: June 7, 2002
Attorney Docket No.7883.0338

: DECISION GRANTING PETITION

This decision is in response to Applicant's "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" timely[1] filed on June 27, 2005 requesting that the Patent Term Adjustment be adjusted from one hundred and twelve (112) days to the amount of one hundred and sixty-seven (167) days.

Applicant's petition is **dismissed.**

Applicant argues that the Office erred in assessing an applicant delay of fifty-nine (59) days for the response filed on February 18, 2005. Applicants assert that the reduction should only be for a period of thirty-six days or forty days not fifty-nine days.

Applicant's arguments are not persuasive. A review of the file reflects that applicants reply to the final rejection occurred on February 18, 2005. Applicants assert that the three month clock should have stopped on December 21, 2004, date of submission of an amendment under 37 CFR 1.116. However, the clock does not stop on that date because the amendment failed to put the case in condition for allowance. Rather, the clock stopped on the date of the submission of the notice of appeal.[2] Accordingly, the fifty-nine (59) reduction is accurate.

After review of this decision, this application will be forwarded to the Office of Patent Publications for a prompt issuance of a patent. Any delays in issuing the application more than

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[1]Issue fee paid on June 27, 2005.

[2]Applicant's three month reply under 37 CFR 1.704(b) to a final rejection stops on the first filed of a notice of appeal, an amendment which places the case in condition for allowance, or the submission of an RCE.

Application No. 10/[redacted] 048,409

four months after the payment of the issue fee under 35 U.S.C. 154(b)(1)(A)(iv) or three years after the filing of the application under35 U.S.C. 154(b)(1)(B) will be added to the PTA determination at the time of the issuance of the patent . The determination will be reflected in the issue notification letter that is mailed to applicants approximately three weeks prior to issuance of the application.

The Office acknowledges the receipt of $200.00 for the application for patent term adjustment (petition). No additional fees are required by the Office.

Any questions concerning the issuance of this patent should be directed to Kery A. Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757

Kery A Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 3, 2006

TO SPE OF : ART UNIT 3683

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/048,421 Patent No.: 6,783,195

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Robert A Siconolfi

SPE

3683

Art Unit

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2-14-06

wk

In re Application of	:	
Kenichi Otani et al.	:	
Serial Number: 10/048,446	:	DECISION
Filed: June 24, 2002	:	ON
For: Molded Articles with Ridges, Drying Mold for Producing Molded Articles, Method of Producing Molded Articles, And Apparatus For Producing Molded Articles	:	PETITION

This is in response to a petition filed under 37 CFR 1.181 filed September 12, 2005, requesting a refund of the fees for the extensions of time and Notice of Appeal because the Patent Office has failed to respond either by Notice of Allowance or by Advisory Action to the amendment filed after final, filed July 6, 2005.

DECISION

The petition is **DISMISSED**.

A Notice of Allowance was mailed on October 3, 2005.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Katherine P. Barecchia
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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8-14-06

wk

In re Application of	:	
Kenichi Otani et al.	:	
Serial Number: 10/048,446	:	DECISION
Filed: June 24, 2002	:	ON
For: Molded Articles with Ridges, Drying Mold for Producing Molded Articles, Method of Producing Molded Articles, And Apparatus For Producing Molded Articles	:	PETITION

This is in response to a request for reconsideration filed under 37 CFR 1.181 filed April 4, 2006, requesting a refund of the fees for the extensions of time and Notice of Appeal because the Patent Office has failed to respond either by Notice of Allowance or by Advisory Action to the amendment filed after final, filed July 6, 2005.

DECISION

The request for reconsideration is **DENIED**.

A Notice of Allowance was mailed on October 3, 2005, which was in response to the amendment filed after final filed July 6, 2005. A refund may be given for any fee paid by mistake or in excess of that required. There was no mistake for the fees paid by the applicant. The fees were paid to keep the application active and to avoid abandonment.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Edward Tracy
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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1940 DUKE STREET
ALEXANDRIA, VA 22314

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JAN 28 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yoshiharu Kuma et al :
Application No. 10/048,447 :
Filed: February 4, 2002 :
Attorney Docket No. 219021US0PCT :

This is a decision on the petition, filed January 27, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 5, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred 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 IDS.

Wan Laymon
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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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of

Jerome Besse

Application No. 10/048,459

Filed: May 14, 2002

Attorney Docket No. 103120-00023

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed May 1, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on December 6, 2005, after it was believed that no further action was taken after a Notice of Appeal was filed on October 5, 2005. A Notice of Abandonment was mailed on May 1, 2006.

The record reflects that that on April 5, 2005 a final Office action was mailed allowing a shortened statutory period for response of three months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136. A response was filed on July 5, 2005. An Advisory Action mailed August 2, 2005 informed applicant informed that the response of July 5, 2005, did not place the application in condition for allowance. On October 5, 2005, applicant requested an extension of time within the third month and filed a Notice of Appeal. Pursuant to 37 CFR 41.37, applicant was allowed two-months from the filing of the Notice of Appeal to file an appeal brief. The period for filing the appeal brief is extendable pursuant to 37 CFR 1.136. Rather than filing an appeal brief, on April 28, 2006, applicant filed a Request for Continued Examination with a request for extension of time within the fifth month. On May 1, 2006, a Notice of Abandonment was mailed stating that the application was abandoned for failure to file a proper reply after the Advisory Action of August 2, 2005.

It is noted that the once the Notice of Appeal was filed, the time period set by the final Office action was tolled and response time calculations began to run from the date the Notice of Appeal was filed. See MPEP 1205.01. The Notice of Appeal allowed a shortened period for response of two-months from its mailing date with extension of time available up to five additional months after the two months stipulated. The filing of the Request for Continued Examination on April 28, 2006, with the request for an extension of time within the fifth month was both a timely and proper response, accordingly. The holding of abandonment was, therefore, improper and is withdrawn.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded to Technology Center 1600, GAU 1615 for further processing, including treatment of the Request for Continued Examination filed April 28, 2006.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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ARENT FOX LLP
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WASHINGTON DC 20036

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In re Patent No. 7,214,646	:	
Issue Date: May 8, 2007	:	
Application No. 10/048,470	:	ON PETITION
Filed: June 7, 2002	:	
Attorney Docket No. 107348.00208	:	

This is a decision on the petition filed January 10, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Carl Friedman
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/048,502	06/12/2002	Michael A. Resnick	14014.0344U2	4669

36339 7590 02/07/2006

NATIONAL INSTITUTE OF HEALTH
C/O NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30303

EXAMINER
SCHLAPKOHL, WALTER

ART UNIT	PAPER NUMBER
1636	

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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FEB - 7 2006

NATIONAL INSTITUTE OF HEALTH
C/O NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30303

In re Application of	:
Resnick et al.	:
Serial No.: 10/048,502	: PETITION DECISION
Filed: June 12, 2002	:
Attorney Docket No.: 14014.0344U2	:

This is a remail of the petition decision of November 29, 2005. Regrettably, this decision was mailed to an incorrect address and was subsequently returned to us as undelivered on December 13, 2005.

DAC

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In re Application of Michael A. Resnick et al. :
Serial No. : 10/048,502 :PETITION DECISION
Filed : June 12, 2002 :
Attorney Ref No. :14014:0344U2 :

This letter is in response to the Petition under 37 C.F.R. 1.181, filed May 13, 2005 under 37 CFR 1.144 to request the review and withdraw of the restriction requirement. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that the application is the national stage filing under 35 U.S.C. 371 of PCT/ US00/20538 filed 28 July 2000.

On 10/8/2003 a lack of unity requirement was made among the 62 original claims designating inventions corresponding to groups 1 through 68.

On 12/11/2003, applicants elected with traverse the subject matter of Group I, claim 1, drawn to a p53 variant (mutation at residue V122A) requesting the examiner to reconsider the restriction since examiner has not show that a serious burden would be required to examiner all the claims. Applicants also argued in their traversal that for a restriction to be proper, the Examiner must satisfy the following two criteria: (1) the existence of independent and distinct inventions (35 U.S.C. 121); and (2) that the search and examination of the entire application cannot be made without serious burden. Applicants asserted that Examiner has not shown that the second requirement has been met, on the basis that the Examiner has not shown that it would be serious burden to search and examine all of the claims together.

In response to the election, the examiner acknowledged the election of Group I, claim 1, found the traversal non-persuasive and made the restriction requirement FINAL, and issued an first Office action on the merits in the paper mailed 3/8/2004. Claim 1 was rejected under 35

U.S.C. 112, 1st paragraph as not being enabled. Applicants responded to that Office action. In response Examiner mailed a Final rejection on 12-13-04 maintaining the above rejection. Applicants have filed a Notice of Appeal on 17 May 2005 and then filed a RCE on 17 October 2005.

In response to the Office action of 12/13/2004, applicants filed the instant petition, accompanying arguments and amendments of the claims.

DISCUSSION

The application, file history and petition under 37 C.F.R. 1.144, to request review of the restriction requirement has been considered.

Applicant's complete argument has been considered in full. Prior to the discussion of the merit of the petition, it is noted that the claim currently being examined is drawn to Group I, drawn to p53 protein variant containing the mutation V122A.

This decision is in response to the Petition under 37 C.F.R. 1.144, filed on April 15, 2005, to request the reconsideration and withdrawal of the restriction requirement.

Applicants while disagreeing with the Examiner regarding the lack of special technical feature linking all the different groups submit that according to the Administrative Instructions Under PCT [Annex B, continued] Part 2, Example 17 sets forth claim 1 as a protein X and claim 2 as a DNA sequence encoding protein X, and according to this example the expression of the DNA sequence in a host results in the production of a protein which is determined by the DNA sequence and therefore the protein and the DNA sequence exhibit corresponding special technical features and that Unity between claims 1 and 2 is accepted. Applicants argue that according to the Administrative Instructions Under the PCT, each polypeptide comprising a human p53 mutation should have been grouped with the nucleic acid encoding same, and that the Examiner should have, at a minimum, grouped each polypeptide comprising a human p53 mutation with the corresponding nucleic acid encoding the polypeptide. Applicants provide an example that since claim 36 is directed to a nucleic acid encoding any of the polypeptides of claims 1-35, Group 1 should include claims 1 and 36, Group 2 should include claims 2 and 36, Group 3 should include claims 3 and 36 etc.

Based on conclusion reached above, Applicants argue that unity exists between the claims to the polypeptides comprising specific human p53 mutations of the present invention and claims to use of these polypeptides because the special technical feature common to all of the claims is the polypeptide comprising a specific human p53 mutation and that the Examiner should have grouped each polypeptide comprising a specific human p53 mutation with the nucleic acid encoding this polypeptide and the methods of using these polypeptides and nucleic acids. Applicants argue that the Administrative Instructions Under the PCT (Annex B, Continued) Part 2, Examples Concerning Unity of Invention (MPEP AI-70 and MPEPAI-67), Example 1 sets forth claim 1 as a method of manufacturing chemical substance X, claim 2 as

substance X and claim 3 as the use of substance X as an insecticide. According to this Example, unity exists for claims 1, 2 and 3 because the special technical feature common to all the claims is substance X. Similarly, unity exists between the claims to the polypeptides comprising specific human p53 mutations of the present invention and claims to uses of these polypeptides because the special technical feature common to all of the claims is the polypeptide comprising a specific human p53 mutation. Therefore, the Examiner should have grouped each polypeptide comprising a specific human p53 mutation with the nucleic acid encoding this polypeptide and the methods of using these polypeptides and nucleic acids. Applicants argue, for example, since claims 43-45 and 49 are directed to the method of inducing toxicity in a cell by administering to the cell a human p53 that contains a toxic mutation, Group 1 should include claims 1, 36 , 43-45 and claim 49; Group 2 should include claims 2, 36, 43-45 and 49; Group 3 should include claims 3, 36, 43-45 and 49 etc.

Applicants also argue that the present application is a national phase application under 37 C.F.R. 371 and during prosecution of claims 1-62, the International Search Authority and the International Preliminary Examination Authority deemed claims 1-7, 33-35, 38, 39, 43-45, 50, 51, 57 (completely) and claims 36, 40-42, 49 (partially) to be one invention and that claims 1-7, 33-35, 38, 39, 43-45, 50, 51, 57 (completely) and claims 36, 40-42, 49 (partially) have previously been determined to relate to a single general inventive concept, i.e. p53 polypeptides containing a toxic mutation and their uses.

Finally, applicants argue that they believe Group 1 should also include claims 36, 43-45 and 49 and Groups 2 through 7, should include claims 2-7, 36, 43-45 and 49, and should be examined with Group 1. Applicants also argue that broadening the search to include additional searches for Groups 2 through 7 would only require the Examiner to conduct additional searches for polypeptides comprising very specific human p53 mutations, i.e. C227W, C277R, F338L, V157I, A76-1- and T150A and that conducting a search for 6 additional defined mutations of human p53 does not seem to be an undue burden on the Examiner and that broadening the search to include at least Groups 2 through 7 which were previously determined to relate to a single inventive concept would eliminate the necessity of filing multiple applications.

These arguments are not fully persuasive for the following reasons.

The inventions listed as Groups 1-68 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical feature for the following reason(s):

It is noted that claims are directed to fragments of variant p53 polypeptide. However, variant fragments arising from a common polypeptide need not and as in this case do not have a structure common with each other. For example, it can be readily seen that the fragments claimed in claims 1-3 does not share a required technical feature. Claim 1 is drawn to an isolated human p53 polypeptide containing the mutation V122A and claim 2 is drawn to an isolated polypeptide comprising residues 272 to 282 of human p53 containing the mutation C277W while claim 3 is drawn to an isolated polypeptide comprising residues 272 to 282 of human p53

containing the mutation C277R. Claim 1 does not require the C277W or C277R mutation of claims 2 or 3, claim 2 does not require the V122A or C227R mutations of claims 1 and 3 an Claim 3 does not require the V122A or C277W mutation of claims 1 and 2. On similar lines, the fragments claimed in the remaining claims 4-35 do not share a required technical feature. It is also noted that the mutation in one polypeptide fragment claimed in for example claim 1, is not required for another polypeptide fragment claimed in claim 2 or 3 or 4 or 5 to function as a p53 variant. Thus, each polypeptide invention fails to share a special technical feature with each other.

The specification also teaches that the polypeptide fragments need not have a common structure in order to have the common function i.e., a variant p53. Table 3 on page 93, describes the different mutations located in p53 polypeptide and Table 5 on page 95 describes the differences between the p53 variants. It can be seen from these data that there is no requirement for the fragments to have a common structure to function as a p53 protein.

Applicants' argument to include claims drawn to the polynucleotide encoding the variant polypeptides is noted. The inclusion of DNA and protein and a method of use of the DNA applies only when claims are drawn to novel or non-obvious inventions. However, in this case, even though the Examiner has not cited, p53 variants are well known in the prior art. Timothy et al. 1997, (Blood, Vol. 87(10):4302-4310) or Gaidano et al. 1991, (PNAS, Vol. 88:5413-5417) disclose p53 variants and mutants. Thus, it can be seen that the invention, when considered as a whole does not contribute over the prior art. Any shared technical feature is not considered special and unity is lacking. Thus the different inventions do not meet the requirement of a technical interrelationship and the same or corresponding special technical feature as defined in Rule 13.2.

Furthermore, as previously stated by the examiner, and recited by applicants in their submission, according to PCT Rule 13.2 and to the guidelines in PCT Administrative Instructions, the requirement of a technical interrelationship and the same or corresponding special technical feature as defined in Rule 13.2, shall be considered to be met when the alternatives are of a similar nature and all alternatives have a common property or activity and a common structure is present. While it can be agreed that the p53variants, nucleic acids, vectors and cells share a common property or activity, the polypeptides, as claimed read upon p53 fragments and are **not** regarded as being of similar nature because all alternatives do not share a common structure.

While it is agreed that Example 17 in Administrative Instructions Under PCT [Annex B, continued] Part 2 suggests the inclusion of claims drawn to DNA and polypeptide in the same group, such a suggestion does not hold good for the instant case to combine all the claims drawn to polynucleotide and all the methods claims in a single group. This is because, as explained above, each polypeptide variant is distinct from each other. However, it can be agreed that because Examiner has found that the specific mutation of claim 1 is free of prior art, claim 33 drawn to the polynucleotide encoding the specific mutant of claim 1 only can be rejoined with claim of group I, i.e., claim 36 drawn to an isolated nucleic acid encoding the polypeptide of

claim 1 will be joined with claim 1 in group I. It is noted that claim 36 appears to be incomplete as text is missing.

Therefore, it is granted that claim 1 and amended claim 36 drawn specifically to the polypeptide of claim 1 be rejoined in Group I.

Applicants' argument that claims drawn to all methods of using the polypeptides be also grouped with claims drawn to polypeptides and polynucleotides is not granted because as shown above, while all variant p53 polypeptides may be toxic (common property) they do not have a common structure and therefore each polynucleotide and the encoded polypeptide is distinct from each other. Applicants argue that the Administrative Instructions Under the PCT (Annex B, Continued) Part 2, Examples Concerning Unity of Invention (MPEP AI-70 and MPEPAI-67), Example 1 sets forth claim 1 as a method of manufacturing chemical substance X, claim 2 as substance X and claim 3 as the use of substance X as an insecticide. According to this Example, unity exists for claims 1, 2 and 3 because the special technical feature common to all the claims is substance X.

On similar lines, applicants argue, unity exists between the claims to the polypeptides comprising specific human p53 mutations of the present invention and claims to uses of these polypeptides because the special technical feature common to all of the claims is the polypeptide comprising a specific human p53 mutation. While it is agreed that given the fact pattern of the example, the method claims in the example should be included in the claims drawn to the product, in the instant case, it is noted that none of the method claims except claim 45 require the elected invention and therefore the invention taken as a whole does not share technical feature. Moreover, claim 56 is a method of screening for mutants which is not a method of making or using the elected polypeptide.

> 45. (Withdrawn) The method of claim 44, wherein the nucleic acid that encodes the toxic mutant comprises a nucleic acid that encodes a mutation selected from the group consisting of V122A, V274I, C277W, A76T, C277R, F338L, V157I, W91C, C124R, Q136K, T150A, or G279R.

According to 37 CFR 1.475 (b), (c), (d), An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:

(1) A product and a process specially adapted for the manufacture of said product; or
(2) A product and a process of use of said product; or
(3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; or
(4) A process and an apparatus or means specifically designed for carrying out the said process; or
(5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process.

(c) If an application contains claims to more or less than one of the combinations of categories of invention set forth in paragraph (b) of this section, unity of invention might not be present. (d) If multiple products, processes of manufacture or uses are claimed, the first invention of the category first mentioned in the claims of the application and the first recited invention of each of the other categories related thereto will be considered as the main invention in the claims, see PCT Article 17(3)(a) and § 1.476(c).

(e) The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim.

Because the polypeptide of group I has been shown to be free of prior art, the amended claim (amended claim 45) drawn specifically to the method of use of the claimed polypeptide will be rejoined in group I.

Applicant's reference to the conclusions reached by the International Search Authority regarding the unity of invention is acknowledged. However, this argument is not found persuasive on the basis that decisions regarding unity of invention during the international phase are not binding to the application during the national phase and unity is considered anew at each stage of the prosecution. The different groups indicated by the examiner lack unity of invention because they do not share a "special technical feature" as discussed above.

Finally, with respect to the assertion that it would not be burdensome for the examiner to search the combination of all the different groups is also not persuasive because the criteria used in identifying the different inventions in national stage PCT applications is not the burden to search but whether the invention when considered as whole shares a technical feature which makes a contribution over the prior art. Therefore, applicant's argument of reduced burden to search is not persuasive.

DECISION

For these reasons, the petition under 37 C.F.R. 1.144, to request to withdraw of the lack of unity determination is **GRANTED-IN-PART**.

The request to rejoin the polynucleotide claim 36 with the elected polypeptide claim 1 is **GRANTED** in view of the shared corresponding special technical feature.

The request to have the method Groups rejoined to the elected product group is **DENIED** because the methods as claimed do not require the product.

The request to have the unity accepted among Groups 1-32 is **DENIED** because there is no shared technical feature among the groups.

Any request for consideration must be filed within two (2) months of the mailing date of this decision.

The application will be forwarded to the examiner to take appropriate action as a result of this petition decision and to consider the amendments and arguments filed by applicants on 17 May 2005 and 17 October 2005.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-273-8300.

Jasemine C. Chambers

Jasemine Chambers
Director, Technology Center 1600

Organization 1600 Bldg./Room 4EN

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In re Application of HONDA, Katsuhisa, et al. Application No.: 10/048,526 PCT No.: PCT/JP01/04470 Int. Filing Date: 28 May 2001 Priority Date: 31 May 2000 Attorney's Docket No.: 3382-0103P For: SAMPLING FILTER FOR CHLORINATED ORGANIC COMPOUNDS	DECISION ON PAPERS UNDER 37 CFR 1.42

This is a decision on applicants' submission of items concerning a filing under 35 USC 371, filed 31 January 2002. A review of the declaration reveals an indication that joint inventor Osamu Kajikawa is deceased. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 28 May 2001, applicants filed international application PCT/JP01/04470, which claimed a priority date of 31 May 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 06 December 2001. The deadline for entry into the national stage in the United States was 31 January 2002.

On 31 January 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42. However, the declaration must include the signature of the legal representative or the signature of all of the heirs (or if there is only one heir, the sole heir), if under applicable law, the heirs' authority corresponds to that of a legal representative. See MPEP 409.01(d).

In this case, Ms. Toshiko Kajikawa signed the declaration as "heiress of Osamu Kajikawa." However, she did not identify herself as either the "sole heir" or the "legal representative" of inventor Kajikawa's estate. This leaves open the possibility of additional non-signing heirs.

Additionally, the declaration must list the citizenship, residence and postal address for both Ms. Kajikawa and inventor Kajikawa. See 37 CFR 1.497 and 37 CFR 1.63. The declaration does not list the required information for inventor Kajikawa.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicants are required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
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PCT Legal Administration

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07 AUG 2002

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In re Application of HONDA, Katsuhisa, et al. Application No.: 10/048,526 PCT No.: PCT/JP01/04470 Int. Filing Date: 28 May 2001 Priority Date: 31 May 2000 Attorney's Docket No.: 3382-0103P For: SAMPLING FILTER FOR CHLORINATED ORGANIC COMPOUNDS	DECISION ON REQUEST UNDER 37 CFR 1.42

This is a decision on applicants' "Renewed Submission Under 37 C.F.R. §1.42," submitted on 22 July 2002.

BACKGROUND

On 28 May 2001, applicants filed international application PCT/JP01/04470, which claimed a priority date of 31 May 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 06 December 2001. The deadline for entry into the national stage in the United States was 31 January 2002.

On 31 January 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration.

On 21 May 2002, the Office mailed Decision On Papers Under 37 CFR 1.42 refusing applicants' request for status.

On 22 July 2002, applicants filed the renewed submission accompanied by a new declaration.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42. However, the declaration must include the signature of the legal

representative or the signature of all of the heirs (or if there is only one heir, the sole heir), if under applicable law, the heirs' authority corresponds to that of a legal representative. See MPEP 409.01(d).

The declaration submitted on 22 July 2002 complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.42.

The surcharge for late furnishing of the oath or declaration will be charged to deposit account no. 02-2448, as authorized by the renewed submission.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**.

The application has an international filing date of 28 May 2001 under 35 U.S.C. §363 and a date of 22 July 2002 under 35 U.S.C. §371. This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : ~~3/9/06~~ 7/19/06

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/048526 Patent No.: 6890374 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

DUANE SMITH
SUPERVISORY PATENT EXAMINER

SPE — Art Unit 1724

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Alan M. Gordon
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In re Application of TIAN, Peng, et al. Application No.: 10/048,540 PCT Application No.: PCT/US99/11872 International Filing Date: 28 May 1999 Priority Date: 29 May 1998 Attorney Docket No.: 33,466-00 For: DIFFERENTIAL CYTOTOXICITY OF ALTERNATIVE FORMS OF ROTAVIRUS NONSTRUCTURAL PROTEIN 4	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' "Petition for Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed in the United States Patent and Trademark Office on 07 December 2001 is **GRANTED**.

BACKGROUND

On 28 May 1999, applicants filed an international application, No. PCT/US99/11872, which claimed a priority date of 29 May 1998.

On 09 December 1999, a demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 29 November 2000.

On 07 December 2001, applicants filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, a petition to revive and a declaration.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfies the requirements of 37 CFR 1.137(b)(3). Applicants have authorized the Office to charge the appropriate fees to Deposit Account No. 01-1300. A terminal disclaimer is not required as application was filed on 28 May 1999. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

The $130.00 surcharge for filing the oath or declaration later than 30 months from the priority date as required by 37 CFR 1.492(f) will be charged to counsel's Deposit Account No.01-1300 as authorized in the transmittal letter filed 07 December 2001.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

The application has an international filing date of 28 May 1999 under 35 U.S.C. §363 and a date of 07 December 2001 under 35 U.S.C. §371. This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

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18 SEP 2002

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In re Application of Mark Hao Li, et al. Application No.: 10/048,541 PCT No.: PCT/GB00/01796 Int. Filing Date: 11 May 2000 Priority Date: 15 May 1999 Attorney's Docket No.: 60130-1227/9 For: LATCH	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision in response to the declaration and petition filed under 37 CFR 1.47(a) on 03 June 2002, to accept the application without the signature of co-inventor Mr. Mark Hao Li. The required $130 petition fee was included.

BACKGROUND

On 11 May 2000, applicant filed international application PCT/GB00/01796 that claimed priority of an earlier British application filed 15 May 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 November 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 20 November 2000 prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 15 November 2001.

On 13 November 2001, applicant filed a letter for entry into the national stage in the United States which was accompanied by a copy of the international application, a information disclosure statement, a preliminary amendment and the basic national fee of $890 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/248,541.

On 03 April 2002, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration. The notification set a two-month time period in which to respond.

In order to satisfy the requirements of 35 U.S.C. 371(c)(4), on 03 June 2002, applicants filed the following papers:

1) a Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) including a Petition under 37 CFR 1.47(a);

2) the required petition fee;

3) a declaration signed by Mr. David Jonathon Williams;

4) various documents intended to show that Mr. Mark Hao Li has refused to sign the application papers and giving Mr. Li's last known address.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing inventor.

With respect to item (1), applicant has submitted the proper petition fee of $130. With respect to item (2), applicant has submitted copies of letters sent to Mr. Li indicating that the application was forwarded for his signature. Applicant has also submitted a declaration from Mr. John Jones. Mr. Jones sent a copy of the present application to Mr. Li. Further, Mr. Jones spoke to Mr. Li on 04 February 2002 at which time Mr. Li indicated that he was in receipt of the letters and that he would not be signing any of the documents. With respect to item (3), applicant has provided the last known address for Mr. Li. With respect to item (4), applicant has provided a declaration signed by co-inventor, Mr. David Jonathon Williams.

CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED**.

Applicant submitted $1000 for the Basic National Fee, and the elected office applied $1040 to the basic national fee. This fee was only $890 on the date of filing, so applicant was overcharged $150. However, the $130 fee for filing the declaration after 30 months from the earliest priority date was not paid. Therefore, the difference of **$20** has been **credited** to **Deposit Account # 50-1482**.

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The

application will be given an international filing date of 11 May 2000 under 35 U.S.C. 363, and a date of 03 June 2002 under 35 U.S.C. 371.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

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18 SEP 2002

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Mark Hao Li
Apartment 3
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B18 6BF, United Kingdom

In re Application of
Mark Hao Li, et al.
Application No.: 10/048,541
PCT No.: PCT/GB00/01796
Int. Filing Date: 11 May 2000
Priority Date: 15 May 1999
Attorney's Docket No.: 60130-1227/9
For: LATCH

Dear Mr. Hao Li:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an 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 to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney 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.

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Leonard Smith
PCT Legal Examiner
PCT Legal Office

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12 FEB 2004

#15

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In re Application of KOYANAGI, Yukio Application No.:10/048,549 PCT No.: PCT/JP01/04250 Int. Filing Date: 22 May 2001 Priority Date: 06 June 2000 Attorney Docket No.:22040/005 For: COMPRESSING METHOD AND DEVICE, EXPANDING METHOD AND DEVICE, COMPRESSING AND EXPANDING SYSTEM, RECORDING MEDIUM, AND PROGRAM	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition to Withdraw Holding of Abandonment Pursuant to 37 CFR 1.181(A)," filed on 22 October 2003.

BACKGROUND

On 22 May 2001, international application PCT/JP01/04250 was filed listing Yukio Koyanagi (applicant) as applicant/inventor. The international application claimed a priority date of 06 June 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (PTO) from the International Bureau on 13 December 2001. The deadline for paying the basic national fee in the United States was twenty months from the priority date because a "DEMAND" was not filed. The twenty-month date was 06 February 2002.

On 31 January 2002, applicant filed a transmittal letter for entry into the national stage in the United States. On page 2 of the transmittal letter, applicant's counsel checked the boxes next to the following two statements, "Please charge my Deposit Account No. 22-0185 in the amount of $1430 to cover the above fees" and "The Director is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 22-0185."

PTO records indicate that on 06 February 2002 the PTO Finance Division tried to charge Deposit Account No. 22-0185 but could not because of insufficient funds.

BEST AVAILABLE COPY

On 26 April 2002, the PTO mailed out a Notification of Abandonment stating that the national-stage application is abandoned because "Applicant has failed to provide the full U.S. Basic National Fee by 20 months."

On 28 May 2002, applicant filed a "Response to Notification of Abandonment." This communication includes the statement, "Attached please find true copes of the Transmittal Letter for entering the national phase authorizing the PTO to charge the national fees to Deposit Account 22-0185 . . . ."

On 27 August 2003, applicant filed a "Status Inquiry," which includes the statement, "Applicant submits that the Notice of Abandonment mailed April 26, 2002 was issued in error and requests that the Abandonment status be removed and that the above-referenced application be revived as petitioned on May 28, 2002."

On 22 October 2003, applicant filed a "Petition to Withdraw Holding of an Abandonment Pursuant to 37 CFR 1.181(A). The "Relevant Facts" section of the petition states, *inter alia*:

> (3) [The 31 January 2002 transmittal] included Deposit Account No. 22-0185 authorization for any fees related to this application, including the basic filing fee and assignment recordation fee of $1430.
>
> (4) CBLH Deposit Account No. 22-0185 has not yet been charged in the amount of $1430 for the fees associated with this application.
>
> * * *
>
> (6) CBLH Deposit Account No. 22-0185 had sufficient funds on deposit for the fees in this application during the period between the transmittal date of January 31, 2002, to April 26, 2002, the mailing date of the Notification of Abandonment.
>
> * * *
>
> (7) Applicant responded to the Notification of Abandonment in the "Response to Notification of Abandonment" filed May 28, 2002. . . .

The petition requests the following relief:

> (1) That the holding of abandonment be withdrawn as if no abandonment had occurred;
>
> (2) That the "Response to Notification of Abandonment" filed May 28, 2002 be treated as a "Petition to Withdraw Holding of Abandonment Pursuant to 37 CFR

1.181(a)"; and

(3) In the event that the "Response to Notification of Abandonment" filed May 28, 2002 is not accepted as a timely "Petition to Withdraw Holding of Abandonment Pursuant to 37 CFR 1.181(a)", Applicant requests that this Petition be treated on its merits, without dismissal for untimeliness, and that the holding of abandonment be withdrawn as if no abandonment had occurred.

DISCUSSION

Applicant was required to pay the basic national fee and make sure that a copy of the international application has been received by the U.S. Designated or Elected Office prior to expiration of 20 months from the priority date. The file indicates that a copy of the international application was received prior to the 20-month date. Failure to timely pay the basic national fee results in abandonment of the application. The time payment for the basic fee is not extendable.

37 CFR 1.25(a) and (b) permit attorneys and the general public to pay various fees associated with U.S. and international patent applications through deposit accounts established in the PTO. Once a deposit account is created, a monthly statement will be rendered by the PTO. 37 CFR 1.25(a). An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date of authorization if there are insufficient funds in the account. *See* 37 CFR 1.25(b).

The evidence in the file indicates that although applicant's counsel granted the PTO the authority to charges various fees, including the basic U.S. national fee, to Deposit Account No. 22-0185 in the transmittal received 31 January 2002, the PTO Finance Division was unable to charge the basic U.S. national fee to the account on 06 February 2002 due to insufficient funds.

Applicant may file another petition that is accompanied with evidence that there were sufficient funds in Deposit Account No. 22-0185 on 06 February 2002. For example, the February 2002 account statement may indicate that there were sufficient funds on that date. The account balance on 06 February 2002 is the relevant account balance because the PTO Finance Division attempted to charge the account on this date. Any attempt by applicant to establish that there were adequate funds on a day other than 06 February 2002 would not be sufficient. If the submitted evidence shows that there were sufficient funds on 06 February 2002, then the 28 May 2002 communication will be treated as a "Petition to Withdraw Holding of Abandonment."

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED**.

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In re Application of	:	
Yukio KOYANAGI	:	
US Application No.: 10/048,549	:	
PCT Application No.: PCT/JP01/04250	:	DECISION ON
Int. Filing Date: 22 May 2001	:	
Priority Date: 06 June 2000	:	RENEWED PETITION
Attorney Docket No.: 22040/00005-US	:	
For: COMPRESSING METHOD AND DEVICE,	:	UNDER 37 CFR 1.181
EXPANDING METHOD AND DEVICE,	:	
COMPRESSING AND EXPANDING SYSTEM,	:	
RECORDING MEDIUM, AND PROGRAM	:	

This decision is in response to applicant's letter filed on 25 February 2004, REQUEST FOR RECONSIDERATION OF DECISION TO DISMISS PEITIION TO WITHDRAW HOLDING OF ABANDONMENT PURSUANT TO 37 CFR 1.181(A).

BACKGROUND

On 22 May 2001, applicant filed international application PCT/JP01/04250, which designated the United States and claimed a priority date of 06 June 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) on 13 December 2001. A Demand for International Preliminary Examination was not filed for this application. Accordingly, the 20-month deadline for entry into the U.S. national stage expired at midnight on 06 February 2002.

On 31 January 2002, applicant filed a transmittal letter for entry into the national stage in the United States. An instruction on page 2 of the transmittal letter authorized the USPTO to charge Deposit Account No. 22-0185 a total of $ 1,430.00 in fees for this filing.

A paper placed in the file wrapper by the United States Designated/Elected Office (US/DO/EO) indicates that on 06 February 2002, an attempt was made to charge fees to the Deposit Account No. 22-0185 but this could not be done because of insufficient funds in the Deposit Account.

On 26 April 2002, the USPTO mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) which indicated that the application was abandoned for failure to pay the basic national fee by 20 months from the priority date.

On 28 May 2002, applicant filed a response to the abandonment notice. This response included a copy of the transmittal letter submitted on 22 May 2001 and noted the instructions thereon to charge the fees to applicant's deposit account.

On 27 August 2003, applicant filed a "Status Inquiry," requesting withdrawal of the holding of abandonment and revival of the application.

On 22 October 2003, applicant filed a petition to withdraw the 26 April 2002 holding of abandonment. This petition was dismissed, by Decision mailed on 12 February 2004, because of the evidence in the file wrapper indicating that the USPTO did attempt to charge the fees on 06 February 2002 and was unable to do so because of insufficient funds in applicant's deposit account. This decision invited applicant to request reconsideration and provide evidence there were sufficient funds in applicant's deposit account at the time the attempted charge was made.

On 25 February 2004, applicant filed the instant request for reconsideration. In this request, applicant seeks the following relief.

> (A) That the information provided in this Request for Reconsideration showing an adequate Deposit Account balance on February 6, 2002 be considered;
>
> (B) That the holding of abandonment be withdrawn as if no abandonment had occurred;
>
> (C) That the "Response to Notification of Abandonment" filed May 28, 2002, be treated as a "Petition to Withdraw Holding of Abandonment Pursuant to 37 CFR 1.181(a);"
>
> (D) In the event that the Response to Notification of Abandonment" filed May 28, 2002, is not accepted as a timely "Petition to Withdraw Holding of Abandonment Pursuant to 37 CFR 1.181(a)", Applicant requests that the Petition filed on October 22, 2003, be treated on its merits, without dismissal for untimeliness, and that the holding of abandonment be withdrawn as if no abandonment had occurred; and
>
> (E) That any positive Patent Term Adjustment (PTA) that might be applicable under relevant Statute and/or Patent Rules due to the delay in processing of this application due to USPTO error be applied to the term of any patent that might ultimately issue from this application.

DISCUSSION

In the request for reconsideration, applicant's attorney, avers that:

(1) Deposit Account 22-0815 did have "sufficient funds on deposit for the fees in this application during the period between the Transmittal date of January 31, 2002, to April 26, 2002, the mailing date of the Notification of Abandonment."

(2) Deposit Account 22-0815 "had sufficient funds on deposit to cover the $1430 fees in this application on February 6, 2002, the specific date referenced in the Decision on Petition."

(3) "Applicant's representative deposited $50,000 into CBLH Deposit Account 22-0185 on February 6, 2002. The ending balance on that day was $50,010.65, an amount which was more than adequate to cover the required National Stage fees of $1430."

A copy of the Deposit Account Statement for account 22-0185 for the period of February 2002 was submitted with the request for reconsideration. This statement clearly shows the $50,000 deposit on 6 February 2002 and the $50,010.65 ending balance for 6 February 2002 as stated in the request for reconsideration.

It is clear that there were sufficient funds in applicant's deposit account on February 6, 2002, to cover the National Stage filing fees for this application.

DECISION

The petition is **GRANTED** regarding the relief sought in elements (A) – (C) above. Since the "Response to Notification of Abandonment" filed May 28, 2002, is being accepted as a timely "Petition to Withdraw Holding of Abandonment Pursuant to 37 CFR 1.181(a)", element (D) is moot.

In regard to element (E), it is noted that this request is not timely since the application has not matured into a patent. If and when this application is patented, applicant may petition for an extension of the patent term under the appropriate statute.

The 26 April 2002 Form PCT/DO/EO/909 (NOTIFICAITON OF ABANDONMENT) is hereby **VACATED**.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing.

It is noted that the 35 U.S.C. 371(c)(1), (2) and (4) date for this application is **31 January 2003.**

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#6

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25 AUG 2003

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In re Application of
NISHIYAMA et al.
Application No.: 10/048,553
PCT No.: PCT/JP01/04729
Int. Filing Date: 05 June 2001
Priority Date: 05 June 2000
Attorney Docket No.: 2158/0286
For: PROCESS FOR PREPARING OPTICALLY ACTIVE 2-[6-(HYDROXY-METHYL)-1,3-DIOXAN-4-YL]ACETIC ACID DERIVATIVES

DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicant's "Response to Notification of Abandonment", treated as a petition under 37 CFR 1.181, filed in the United States Patent and Trademark Office (USPTO) on 09 May 2002. This is also in response to applicant's status inquiries filed 06 December 2002 and 31 July 2003.

On 05 June 2001, applicant filed international application No. PCT/JP01/04729 which claimed a priority date of 05 June 2000, and which designated the United States. No Demand was filed with an International Preliminary Examining Authority and thus, the deadline for entry into the national stage in the U.S. expired 20 months from the priority date, i.e. 05 February 2002.

On 31 January 2002, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: authorization to charge the $890 basic national fee to applicant's deposit account (no.22-0185).

On 09 April 2002, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to provide the basic national fee by the 20 month deadline.

On 09 May 2002, applicant filed a Response to Notification of Abandonment requesting that the abandonment be withdrawn, along with a copy of the transmittal letter indicating authorization to charge fees to applicant's deposit account.

DISCUSSION

A review of the application file reveals that an amount to pay the basic national fee was not on deposit in counsel's deposit account on 06 February 2002 when an attempt to charge the fee was made.

37 CFR 1.125(a) states, in part:

> An amount sufficient to cover all fees, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."

37 CFR 1.125 (b) states, in part:

> Filing, issue, appeal, international-type search report, international application processing, petition, and post-issuance fees may be charged against these accounts if sufficient funds are on deposit to cover such fees."

The USPTO Finance Division has no authority to accept the payment of a fee via a charge to a deposit account that is not sufficiently funded to cover that fee. Clearly, it is applicant's responsibility to maintain a sufficient balance in a deposit account to cover any fees desired to be charged thereto. The processing time that it takes for an authorized fee to be charged to a deposit account or for a refund to be credited thereto by the USPTO cannot be used by applicant as an excuse for a failure to maintain a sufficient balance to cover all outstanding pending authorized charges to the deposit account.

In view of the above, the application was properly held to be **ABANDONED** after midnight of 05 February 2002. Therefore, it would not be appropriate to grant the petition under 37 CFR 1.181 to withdraw the holding of abandonment.

CONCLUSION

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **DISMISSED WITHOUT PREJUDICE**.

The application remains **ABANDONED**.

Any request for reconsideration of the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz

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29 APR 2004

#10

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In re Application of NISHIYAMA et al. Application No.: 10/048,553 PCT No.: PCT/JP01/04729 Int. Filing Date: 05 June 2001 Priority Date: 05 June 2000 Attorney Docket No.: 2158/0286 For: PROCESS FOR PREPARING OPTICALLY ACTIVE 2-[6-(HYDROXY-METHYL)-1,3-DIOXAN-4-YL]ACETIC ACID DERIVATIVES	DECISION ON RENEWED PETITION UNDER 37 CFR 1.181

This is a decision on applicant's "Request for Reconsideration of Decision on Petition under 37 CFR 1.181", filed in the United States Patent and Trademark Office (USPTO) on 24 September 2003 and response to applicant's status inquiry received on 05 January 2004.

On 31 January 2002, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: authorization to charge the $890 basic national fee to applicant's deposit account (no.22-0185). On 06 February 2002, an attempt to charge the basic national fee to applicant's deposit account was denied because the account indicated that there were insufficient funds available.

On 09 April 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to provide the basic national fee by the 20 month deadline.

On 09 May 2002, applicant filed a Response to Notification of Abandonment requesting that the abandonment be withdrawn, along with a copy of the transmittal letter indicating authorization to charge fees to applicant's deposit account.

On 25 August 2003, a decision dismissing the petition was mailed indicating that the USPTO Finance Division has no authority to accept the payment of a fee via a charge to a deposit account that is not sufficiently funded to cover that fee.

On 24 September 2003, applicant filed this renewed petition along with a copy of the USPTO deposit account statements for January and February 2002.

DISCUSSION

The USPTO Finance Division conducted a review of applicant's deposit account for January and February 2002. A review of the finance records for the deposit account at issue resulted in the issuance of a letter dated 16 April 2004 (copy enclosed). The office communication indicates that a deposit of $50,000 was hand delivered to the USPTO on February 5, 2002 at 5:10 PM. On February 6, 2002, charges against the applicant's deposit

account were attempted prior to the posting of the payment made the day before. The Finance office concluded that the "rejected payments should be charged to [applicant's] deposit account without further penalty."

In light of the Finance office's review of the deposit account record and the Office communication date 16 April 2004, concluding that sufficient funds were available on 06 February 2002, the Notification of Abandonment mailed on 09 April 2002 is hereby **VACATED**. The basic national fee of $890 will be charged to applicant's deposit account.

CONCLUSION

In light of the reasons set forth above, the petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing including **VACATING** the Notification of Abandonment mailed on 09 April 2002 and issuance of a Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the $130 surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz

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08 APR 2004

#9

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DECHERT LLP
Attn: Allen Bloom
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Philadelphia, PA

In re Application of:	:	
THONNARD, Joelle	:	
U.S. Application No.: 10/048,574	:	DECISION ON PETITION
PCT No.: PCT/EP00/07294	:	
International Filing Date: 27 July 2000	:	
Priority Date: 30 July 1999	:	
Attorney's Docket No.: BM45406	:	
For: IMMUNOGENIC POLYPEPTIDES DERIVED	:	
FROM MORAXELLA CATARHALIS AND	:	
USES THEREOF	:	

This decision is issued in response to applicant's "Petition To Withdraw Holding Of Abandonment" filed 10 November 2003. No petition fee is required.

BACKGROUND

On 27 July 2000, applicant filed international application PCT/EP00/07294 which claimed a priority date of 30 July 1999 and which designated the United States. On 08 February 2001, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 30 January 2002.

On 23 January 2002, applicant purportedly filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment for the basic national fee, an executed declaration, and a purported computer readable form (CRF) of the sequence listing..

On 14 May 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905), indicating that the CRF filed with the application materials was defective and that acceptable sequence listing materials were required. The Notice was accompanied by a "Raw Sequence Listing Error Report" which set forth the errors contained in the filed sequence listing.

On 05 June 2002, applicant filed a response to the Notification Of Missing Requirements which included a purported new CRF of the sequence listing.

On 06 August 2002, the DO/EO/US mailed a Notification Of Defective Response (Form PCT/DO/EO/916) indicating that applicant's response to the Notification Of Missing Requirements was defective and that proper sequence listing materials were still required. The Notice was accompanied by a "CRF Problem Report" which indicated that the new CRF filed by applicant in response to the Notification Of Missing Requirements was damaged. The Notice provided a one-month non-extendable response deadline (though extensions based on the response time in the Notification of Missing Requirements were permitted).

On 09 September 2002, applicant filed a response to the Notification Of Defective Response accompanied again by a purported CRF of the sequence listing.

On 29 October 2003, the DO/EO/US mailed a Notice Of Abandonment (Form PCT/DO/EO/909. This Notice indicates that the application is abandoned because "the reply received to the Notice mailed on 06/05/2002 was untimely."

On 10 November 2003, applicant filed the petition to withdraw the abandonment under 37 CFR 1.181 considered herein. The petition notes correctly that no Office communication was mailed on 05 June 2002 (the date referred to in the Notification Of Abandonment), and it refers to applicant's timely response to the 06 August 2002 Notification Of A Defective Response filed on 09 September 2002, which is not mentioned in the Notice Of Abandonment.

DISCUSSION

Applicant is correct that the Notification Of Abandonment incorrectly lists the date of the Office communication upon which the abandonment is based, and it does not specifically acknowledge applicant's 09 September 2002 response to the Notification Of Defective Response. However, a review of the application file confirms that the holding of abandonment was appropriate. The CRF submitted by applicant on 09 September 2002 was damaged and therefore was not a proper response to the Notification Of Defective Response (a copy of the "CRF Problem Report" is attached to this decision). Applicant therefore failed to file a proper response to the Notification Of Defective Response mailed 06 August 2002 resulting in the abandonment of the application.

It is noted that the two damaged CRF discs mailed by applicant in response to the Notification Of Missing Requirements and the Notification Of Defective Response both appear to have been mailed to the "Box PCT, Washington, DC" mailing address. As noted on the "Raw Sequence Listing Error Report" included with the Notification Of Missing Requirements, and on the "CRF Problem Report" included with the Notification Of Defective Response, computer discs containing sequence listings should be directed to the Alexandria, Virginia address listed thereon in order to avoid potential damage to the discs caused by irradiation treatments applied to mail directed to the Washington, DC address.

Based on the above, the holding of abandonment in the present application is appropriate.

CONCLUSION

Applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181 is **DISMISSED** without prejudice.

Any request for reconsideration of the petition must be filed within **TWO (2) MONTHS** of the mail date of the present application.

In the alternative, applicants might consider filing a petition to revive the unintentionally abandoned application under 37 CFR 1.137(b). Any such petition would need to be accompanied by the sequence listing materials required by the Notification Of Missing Requirements, including a readable CRF of the sequence listing in the proper format.

Please direct further correspondence with respect to this matter 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.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

Enclosure: CRF Problem Report processed 01 October 2003

Pa 1/10

BIOTECHNOLOGY SYSTEMS BRANCH

CRF Problem Report

The Scientific and Technical Information Center (STIC) experienced a problem when processing the following computer readable form (CRF):

Application Serial Number: 10/048,574
Filing Date: 9/9/02
Date Processed by STIC: 10/1/2003

STIC Contact: **Mark Spencer, 703-308-4212**

Nature of Problem:

The CRF (was): melted
✓ (circle one) Damaged or Unreadable (for Unreadable, see attached)
____ Blank (no files on CRF) (see attached)
____ Empty file (filename present, but no bytes in file) (see attached)
____ Virus-infected. Virus name: _____ The STIC will not process the CRF.
____ Not saved in ASCII text
____ Sequence Listing was embedded in the file. According to Sequence Rules, submitted file should **only** be the Sequence Listing.
____ Did not contain a Sequence Listing. (see attached sample)
____ Other:

PLEASE USE THE CHECKER VERSION 4.0 PROGRAM TO REDUCE ERRORS. SEE BELOW FOR ADDRESS:
http:/www.uspto.gov/web/offices/pac/checker

Applicants submitting genetic sequence information electronically on diskette or CD-Rom should be aware that there is a possibility that the disk/CD-Rom may have been affected by treatment given to all incoming mail.
Please consider using alternate methods of submission for the disk/CD-Rom or replacement disk/CD-Rom.
Any reply including a sequence listing in electronic form should NOT be sent to the 20231 zip code address for the United States Patent and Trademark Office, and instead should be sent via the following to the indicated addresses:

1. EFS-Bio (<**http://www.uspto.gov/ebc/efs/downloads/documents.htm**>, **EFS Submission User Manual** - ePAVE)
2. **U.S. Postal Service**: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450
3. **Hand Carry directly to:**
   U.S. Patent and Trademark Office, Technology Center 1600, Reception Area, 7th Floor, Examiner Name, Sequence Information, Crystal Mall One, 1911 South Clark Street, Arlington, VA 22202
   Or
   U.S. Patent and Trademark Office, Box Sequence, Customer Window, Lobby, Room 1B03, Crystal Plaza Two, 2011 South Clark Place, Arlington, VA 22202
4. **Federal Express, United Parcel Service , or other delivery service to:** U.S. Patent and Trademark Office, Box Sequence, Room 1B03-Mailroom, Crystal Plaza Two, 2011 South Clark Place, Arlington, VA 22202

Revised 04/24/2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/048,574		Joelle Thonnard	BM45406

CONFIRMATION NO. 8328

ABANDONMENT/TERMINATION LETTER

OC000000011129735

25308
DECHERT
ATTN: ALLEN BLOOM, ESQ
4000 BELL ATLANTIC TOWER
1717 ARCH STREET
PHILADELPHIA, PA 19103

Date Mailed: 10/29/2003

NOTICE OF ABANDONMENT

UNDER 37 CFR 1.821(g)

Applicant's reply received on 06/05/2002 is acknowledged.

- The above-identified application is abandoned because the reply received to the Notice mailed on 06/05/2002 was untimely.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282.Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

A copy of this notice MUST be returned with the reply.

16 SEP 2004

#11

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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DECHERT LLP
Attn: Allen Bloom
4000 Bell Atlantic Tower
1717 Arch Street
Philadelphia, PA 19103-2793

In re Application of: THONNARD, Joelle U.S. Application No.: 10/048,574 PCT No: PCT/EP00/07294 Int'l Filing Date: 27 July 2000 Priority Date: 30 July 1999 Attorney's Docket No.: BM45406 For: IMMUNOGENIC POLYPEPTIDES DERIVED FROM MORAXELLA CATARHALIS AND USES THEREOF	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 24 May 2004 in the above-captioned application is hereby **GRANTED** as follows:

As set forth in the decision mailed by this Office on 08 April 2004, this application became abandoned for failure to file a proper response to the Notification Of Defective Response (Form PCT/DO/EO/916) mailed 06 August 2002. The present petition states that "the entire delay in filing the required reply from the due date for the required response until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." This statement satisfies the requirement under 37 CFR 1.137(b)(3). Pursuant to the authorization included with the petition, Deposit Account No. 50-0258 will be charged the required petition fee. Applicants have now submitted a proper response to the Notification Of A Defective Response (i.e., the required sequence listing materials, including a readable CRF of the sequence listing) and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the United States of America.

This application is being returned to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 23 January 2002.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

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UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

Mail Date: 04/21/2010

Applicant	: Joelle Thonnard	: DECISION ON REQUEST FOR
Patent Number	: 7632516	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/048,574	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/23/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1011** 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.

10 MAR 2004

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Buchanan Ingersoll
One Oxford Center, 20th Floor
Pittsburgh, PA 15219

In re Application of :
Ademovna et al. :
Application No.: 10/048,576 :
PCT No.: PCT/IB01/01872 :
Int. Filing Date: 13 July 2001 :
COMMUNICATION
Priority Date: 13 July 2000 :
Attorney Docket No.: 020065 :
For: Method For Working And Processing Materials :

This is in response to the petition filed on 10 November 2003.

DISCUSSION

As explained in the Communication mailed on 04 September 2003, this international application has become **ABANDONED** with respect to the national stage in the United States for failure to timely comply with the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 09 April 2002 and the Notification Of Defective Response (Form PCT/DO/EO/916) mailed on 30 May 2002. The instant "petition to revive an unintentionally abandoned application" in effect requests relief under 37 CFR 1.137(b).

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the relevant required reply is that required by the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 09 April 2002 and the Notification Of Defective Response (Form PCT/DO/EO/916) mailed on 30 May 2002. Counsel has not furnished this required reply in that the declarations of the inventors filed on 18 June 2002 are not acceptable for the reasons discussed in the "Communication" mailed on 04 September 2003. Specifically, none of the declarations identifies the entire inventive entity. Moreover, the declaration signed by Alexandras Mikhailovich Chepulis identifies a citizenship of "Russia," whereas the citizenship identified in the published international application is Lithuania. In addition, the declarations in question are in the English language, yet counsel stated in the papers filed on 18 June 2002 that it was appropriate for the inventors to sign Russian language declarations, as "They are not fluent in the English language." The

"Declaration of Boris Brindar" accompanying the petition indicates inter alia that "Each of the inventors reviewed the Declarations in my presence and was able to comprehend the statements made therein" and that "to the best of my knowledge the inventors understood the Declarations, as they had previously signed Declarations for the original Russian language applications." This showing is not sufficient to establish that the signing inventors understood the Declarations. Mr. Brindar has not specifically explained why they were allegedly able to comprehend English language declarations, when counsel had previously stated that they were "not fluent in the English language." It is also noted that copies of "the declarations for the original Russian language applications" as filed in the instant application on 30 April 2002 do not appear to include all of the information required by 37 CFR 1.497(a) and (b); thus, the inventors' alleged comprehension of those Russian language documents does not prove their alleged comprehension of the English language declarations for this application. As such, requirement (1) has not been satisfied.

Regarding requirement (2), the petition fee accompanied the petition.

Regarding requirement (3), the petition includes a statement that this application was "unintentionally abandoned." This statement is being construed as 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." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

Please direct any further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Beauttty for

Boris Milef
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29 SEP 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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One Oxford Center, 20th Floor
Pittsburgh, PA 15219

In re Application of	:	
Ademovna et al.	:	
Application No.: 10/048,576	:	
PCT No.: PCT/IB01/01872	:	
Int. Filing Date: 13 July 2001	:	DECISION
Priority Date: 13 July 2000	:	
Attorney Docket No.: 020065	:	
For: Method For Working And Processing Materials	:	

This is in response to the "Request For Reconsideration" filed on 10 May 2004, which is being treated as a renewed petition under 37 CFR 1.137(b).

DISCUSSION

On 10 March 2004, a Decision was mailed to counsel, dismissing without prejudice a petition under 37 CFR 1.137(b) filed on 10 November 2003. The petition was dismissed because applicant had failed to provide the appropriate "required reply." In particular,

> the relevant required reply is that required by the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 09 April 2002 and the Notification Of Defective Response (Form PCT/DO/EO/916) mailed on 30 May 2002. Counsel has not furnished this required reply in that the declarations of the inventors filed on 18 June 2002 are not acceptable for the reasons discussed in the "Communication" mailed on 04 September 2003. Specifically, none of the declarations identifies the entire inventive entity. Moreover, the declaration signed by Alexandras Mikhailovich Chepulis identifies a citizenship of "Russia," whereas the citizenship identified in the published international application is Lithuania. In addition, the declarations in question are in the English language, yet counsel stated in the papers filed on 18 June 2002 that it was appropriate for the inventors to sign Russian language declarations, as "They are not fluent in the English language." The "Declaration of Boris Brindar" accompanying the petition indicates inter alia that "Each of the inventors reviewed the Declarations in my presence and was able to comprehend the statements made therein" and that "to the best of my knowledge the inventors understood the Declarations, as they had previously signed Declarations for the original Russian language applications." This showing is not sufficient to establish that the signing inventors understood the Declarations. Mr. Brindar has not specifically explained why they were allegedly able to comprehend English language declarations, when counsel had previously stated that they were "not fluent in the English language." It is also noted that copies of "the declarations for the original Russian language applications" as filed in the instant application on 30 April 2002 do not appear

to include all of the information required by 37 CFR 1.497(a) and (b); thus, the inventors' alleged comprehension of those Russian language documents does not prove their alleged comprehension of the English language declarations for this application. As such, requirement (1) has not been satisfied.

Counsel argues that the English language declarations filed on 18 June 2002 should be accepted because

> "it is respectfully submitted that not being fluent in the English language does not mean that the inventors could not understand the English language Declarations that they signed. It is respectfully submitted that the inventors do understand the English language, although they may not be fluent in it..."

This argument is not persuasive because, in the "Response To Notification Of Defective Response," counsel explicitly stated that

> The Declaration was executed in Russian as the inventors are Russian nationals. As such, they are not fluent in the English language and therefore, would not be able to comprehend or effectively sign an English language declaration.

It is not clear from the record why the inventors should now be presumed to be sufficiently literate in the English language to permit them to read, understand and sign an English language declaration, when counsel previously argued that they should be permitted to sign a Russian language declaration precisely because they "would not be able to comprehend or effectively sign an English language declaration." Moreover, Boris Brindar's statement appears to be a mere statement of his opinion (as opposed to objective fact), in view of his qualifying his statements as "to the best of my knowledge." Consequently, it would not be appropriate to grant the requested relief on the basis of the present record.

CONCLUSION

The renewed petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

Applicants have **TWO (2) MONTHS** from the mailing date of this decision to file a response. Extensions of time are available under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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United States Patent and Trademark Office

22 JUL 2005

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In re Application of	:	
Ademovna et al.	:	
Application No.: 10/048,576	:	
PCT No.: PCT/IB01/01872	:	
Int. Filing Date: 13 July 2001	:	DECISION
Priority Date: 13 July 2000	:	
Attorney Docket No.: 020065	:	
For: Method For Working And Processing Materials	:	

This is in response to the correspondence filed on 16 June 2005, which is being treated as a renewed petition under 37 CFR 1.137(b).

DISCUSSION

On 29 September 2004, a Decision was mailed to counsel, dismissing without prejudice a petition under 37 CFR 1.137(b) filed on 10 May 2004. The petition was dismissed because applicant had failed to provide the appropriate "required reply" (in the form of an acceptable oath or declaration of the inventors). In particular, the decision noted that

> It is not clear from the record why the inventors should now be presumed to be sufficiently literate in the English language to permit them to read, understand and sign an English language declaration, when counsel previously argued that they should be permitted to sign a Russian language declaration precisely because they "would not be able to comprehend or effectively sign an English language declaration." Moreover, Boris Brindar's statement appears to be a mere statement of his opinion (as opposed to objective fact), in view of his qualifying his statements as "to the best of my knowledge."

The instant renewed petition is accompanied by a newly executed declaration of the inventors. However, the declaration does not clearly identify the inventive entity because one executed page lists two inventors, while the other executed page, signed on the same day, lists three inventors (including the two named on and signing the other page). It is not clear why the declaration names two different entities in this manner. Moreover, the declaration is also defective in that it appears to have been assembled from sheets from different declaration documents (in particular, the page listing three inventors appears to have a different provenance than the remaining pages). As such, it is not clear whether all of the inventors signing the declaration did so with the benefit of having a complete copy of the declaration document. As such, it would not be appropriate to grant the requested relief on the basis of the present record.

CONCLUSION

The petition is **DISMISSED**, without prejudice.

Applicants have **TWO (2) MONTHS** from the mailing date of this decision to file a response. Extensions of time are available under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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29 SEP 2004

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In re Application of	:	
Ademovna et al.	:	
Application No.: 10/048,576	:	
PCT No.: PCT/IB01/01872	:	
Int. Filing Date: 13 July 2001	:	DECISION
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For: Method For Working And Processing Materials	:	

This is in response to the "Request For Reconsideration" filed on 10 May 2004, which is being treated as a renewed petition under 37 CFR 1.137(b).

DISCUSSION

On 10 March 2004, a Decision was mailed to counsel, dismissing without prejudice a petition under 37 CFR 1.137(b) filed on 10 November 2003. The petition was dismissed because applicant had failed to provide the appropriate "required reply." In particular,

> the relevant required reply is that required by the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 09 April 2002 and the Notification Of Defective Response (Form PCT/DO/EO/916) mailed on 30 May 2002. Counsel has not furnished this required reply in that the declarations of the inventors filed on 18 June 2002 are not acceptable for the reasons discussed in the "Communication" mailed on 04 September 2003. Specifically, none of the declarations identifies the entire inventive entity. Moreover, the declaration signed by Alexandras Mikhailovich Chepulis identifies a citizenship of "Russia," whereas the citizenship identified in the published international application is Lithuania. In addition, the declarations in question are in the English language, yet counsel stated in the papers filed on 18 June 2002 that it was appropriate for the inventors to sign Russian language declarations, as "They are not fluent in the English language." The "Declaration of Boris Brindar" accompanying the petition indicates inter alia that "Each of the inventors reviewed the Declarations in my presence and was able to comprehend the statements made therein" and that "to the best of my knowledge the inventors understood the Declarations, as they had previously signed Declarations for the original Russian language applications." This showing is not sufficient to establish that the signing inventors understood the Declarations. Mr. Brindar has not specifically explained why they were allegedly able to comprehend English language declarations, when counsel had previously stated that they were "not fluent in the English language." It is also noted that copies of "the declarations for the original Russian language applications" as filed in the instant application on 30 April 2002 do not appear

to include all of the information required by 37 CFR 1.497(a) and (b); thus, the inventors' alleged comprehension of those Russian language documents does not prove their alleged comprehension of the English language declarations for this application. As such, requirement (1) has not been satisfied.

Counsel argues that the English language declarations filed on 18 June 2002 should be accepted because

> "it is respectfully submitted that not being fluent in the English language does not mean that the inventors could not understand the English language Declarations that they signed. It is respectfully submitted that the inventors do understand the English language, although they may not be fluent in it..."

This argument is not persuasive because, in the "Response To Notification Of Defective Response," counsel explicitly stated that

> The Declaration was executed in Russian as the inventors are Russian nationals. As such, they are not fluent in the English language and therefore, would not be able to comprehend or effectively sign an English language declaration.

It is not clear from the record why the inventors should now be presumed to be sufficiently literate in the English language to permit them to read, understand and sign an English language declaration, when counsel previously argued that they should be permitted to sign a Russian language declaration precisely because they "would not be able to comprehend or effectively sign an English language declaration." Moreover, Boris Brindar's statement appears to be a mere statement of his opinion (as opposed to objective fact), in view of his qualifying his statements as "to the best of my knowledge." Consequently, it would not be appropriate to grant the requested relief on the basis of the present record.

CONCLUSION

The renewed petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

Applicants have **TWO (2) MONTHS** from the mailing date of this decision to file a response. Extensions of time are available under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration

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04 SEP 2003

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In re Application of	:	
Ademovna et al.	:	
Application No.: 10/048,576	:	
PCT No.: PCT/IB01/01872	:	
Int. Filing Date: 13 July 2001	:	COMMUNICATION
Priority Date: 13 July 2000	:	
Attorney Docket No.: 020065	:	
For: Method For Working And Processing Materials	:	

This is in response to the "Response" filed on 10 December 2002.

DISCUSSION

In response to the communication mailed on 30 September 2002, counsel has provided three executed declarations of the inventors. However, these declarations are not acceptable because none of the declaration documents, by itself, identifies the entire inventive entity (i.e., all of the inventors) - instead, each separate document identifies and is signed by a single inventor, which is tantamount to each inventor asserting himself to be a sole inventor. To be accepted under 37 CFR 1.497(a)(3) and 37 CFR 1.63(a)(2), the declaration must identify "each inventor...," meaning the entire inventive entity. It is also noted that the declaration signed by Alexandras Mikhailovich Chepulis identifies a citizenship of "Russia," whereas the citizenship identified in the published international application is Lithuania. Clarification is required.

Furthermore, the newly submitted declarations are in the English language, but counsel noted in the papers filed on 18 June 2002 that it was appropriate for the inventors to sign Russian language declarations, as "They are not fluent in the English language." In the communication of 30 September 2002, it was noted that 37 CFR 1.69 provides that

> (a) Whenever an individual making an oath or declaration cannot understand English, the oath or declaration must be in a language that such individual can understand and shall state that such individual understands the content of any documents to which the oath or declaration relates.
>
> (b) Unless the text of any oath or declaration in a language other than English is a form provided or approved by the Patent and Trademark Office, it must be accompanied by an English translation together with a statement that the translation is accurate, except that in the case of an oath or declaration filed under § 1.63, the translation may be filed in the Office no later than two months from the date applicant is notified to file the translation.

Insofar as counsel has provided neither dual language declarations nor any statement to the effect that the applicants/inventors are now able to understand the English language, it is not clear that the declarations comply with 37 CFR 1.69(a). *See* MPEP 601.06.

CONCLUSION

The relief requested by the "Response" filed on 10 December 2002 is **REFUSED** without prejudice.

Counsel is advised that this international application has become **ABANDONED** with respect to the national stage in the United States for failure to timely comply with the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 09 April 2002 and the Notification Of Defective Response (Form PCT/DO/EO/916) mailed on 30 May 2002. As such, it would be inappropriate to treat further requests for relief in the absence of a proper petition for revival of the application.

Please direct any further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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In re Patent No. 6777912
Issue Date: August 17,2004
Application No. 10048589
Filed: May 3,2002
Attorney Docket No. GOT 152NP

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed November 17,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 17,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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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)
6,777,912	2004-08-17	10/048,589	2002-05-03	GOT 152NP

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Robert H. Berdo, Jr./	Date (YYYY-MM-DD)	2008-11-17
Name	Robert H. Berdo, Jr.	Registration Number	38075

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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VENABLE, BAETJER, HOWARD AND CIVILETTI,LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Graham Ronald Eastham et al	:	
Application No. 10/048,595	:	ON PETITION
Filed: June 27, 2002	:	
Attorney Docket No. 31229-177603	:	

This is a decision on the petition, filed March 30, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 8, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1624 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
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P.O. Box 1450
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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20045-9998

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OCT 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Graham Ronald Eastham, et al. :
Application No. 10/048,595 : ON PETITION
Filed: June 27, 2002 :
Attorney Docket No. 31229-177603 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 3, 2005, to revive the above-identified application.

The petition is **DISMISSED-AS-MOOT.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed April 21, 2005, which set a statutory period for reply of three (3) months.

Petitioner asserts that the Notice of Allowance dated April 21, 2005 was never received. Petitioner states that the first set of issue and publication fees were filed on September 8, 2004. A petition under 37 CFR 1.313(c) to withdraw from issue and an RCE were filed on March 30, 2005. A status check in the U.S. Patent and Trademark office's PAIR system revealed that on April 27, 2005, a Notice of Allowance was returned to USPTO as undelivered. To support this assertion, petitioner has submitted a copy of PAIR transmittal form, the notice of allowance, and a copy of the return postage to the USPTO. The Notice of Allowance was dated April 21, 2005, with a due date for the payment of the issue fee on July 21, 2005.

A review of the record discloses that an attempt was made by the United States Postal Service to deliver but was unsuccessful. The return postage was stamped, "Attempted Not Known," and was returned back to USPTO as undelivered on April 27, 2005. It has been established that petitioner did not receive the Notice of Allowance dated April 21, 2005. Accordingly, the present petition to revive is unnecessary and dismissed as moot. The petition fee of $1500 will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 1600, Art Unit 1624 for remailing the Notice of Allowance. Petitioner is advised that the issue fee paid on August 3, 2005 in the above-identified application cannot be refunded. However, petitioner may request the payment to be applied towards the issue fee required by the remailed Notice of Allowance[1].

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 12

DUANE MORRIS LLP
PO BOX 5203
PRINCETON, NJ 08543-5203

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JUL 19 2005

OFFICE OF PETITIONS

In re Application of :
Engel et al. :
Application No. 10/048,638 : ON PETITION
Filed: February 1, 2002 :
Attorney Docket No. Deep-3 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 25, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed November 25, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on February 26, 2004. A Notice of Abandonment was mailed September 30, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 2600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of
Franz Knauseder
Application No. 10/048,680
Filed: January 31, 2002
Attorney Docket No. 616.97USWO

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed January 22, 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 Sarah M. Monfeldt on behalf of herself.

Sarah M. Monfeldt has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

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

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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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

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JUL 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Jose R. Romero et al	:	
Application No. 10/048,709	:	DECISION ON PETITION
Filed: June 10, 2002	:	TO WITHFRAW
Attorney Docket No. UNMC.63135	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR 1.36(b) filed October 4, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Woodcock Washburn LLP has been revoked by the assignee of the patent application on November 17, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA PA 19103-2307

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN S. PRATT
KILPATRICK STOCKTON
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309-4530

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SEP 0 9 2005

OFFICE OF PETITIONS

In re Application of	:
Martin Alan Lee et al	:
Application No. 10/048,752	: DECISION GRANTING PETITION
Filed: January 31, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 41577/269481	:

This is a decision on the petition, filed September 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 19, 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 1637 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FEB - 7 2006

FROMMEER LAWRENCE & HAUG, LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

In re Application of	:
Furcht et al	:
Serial No.: 10/048,757	: PETITION DECISION
Filed: August 21, 2002	:
Attorney Docket No.: 890003-2000	:

This is in response to the petition under 37 CFR 1.181, filed October 31, 2005, requesting withdrawal of a previously filed petition.

A review of the file history shows that applicants filed a petition under 37 CFR 1.48 to add an omitted inventor on October 24, 2003. This application was allowed on September 29, 2005, by mailing of a Notice of Allowance and Issue Fee Due and Notice of Allowability. The Notice of Allowability contains a decision on the petition by the examiner indicating that the petition is incomplete inasmuch as all of the elements for a grantable petition are not present. (A declaration from the inventor to be added was not filed.) The petition was, in effect, dismissed. In view of the dismissal the present petition is not required and is moot

The petition is **DISMISSED** as moot.

The application has been forwarded to Publications Division for issuance of a patent.

No fee is required for this petition.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

IC20 Rec'd PCT/PTO 09 APR 2002

PATENT #4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Tsuyoshi Sakata

Serial No.: 10/048,779

Filing Date: January 31, 2002

Title: "AN INFORMATION PROVISION SYSTEM AND APPARATUS THAT CONSTITUTE THE SYSTEM"

Docket No.: 34368

REQUEST AND PETITION FOR CORRECTED FILING DATE

RECEIVED
12 APR 2002
Legal Staff
International Division

Box PCT
Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 2327
Arlington, VA 22202-2327

Sir/Madam:

Applicant respectfully requests and petitions that the filing date for the above-identified application be amended to January 31, 2002.

In accordance with C.F.R. § 110(c), applicant encloses herewith a copy of the return receipt postcard showing a discrepancy in the filing date; a copy of Express Mail Label No. EL653124935US, indicating the Date In of January 31, 2002 (01-31-02) and a copy of the USPS receipt, indicating the January 31, 2002, date of deposit; and a copy of the application transmittal letter to the Patent Office with an express mail certificate in support of the January 31, 2002, filing date.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Arlington, VA 22202-2327 on the date indicated below.

Michael W. Garvey
Name of Attorney for Applicant(s)

April 4, 2002
Date **Signature of Attorney**

Please issue a filing receipt with the January 31, 2002, date and forward the same to the undersigned attorney of record.

If there are any fees resulting from this communication, please charge any fees to our Deposit Account No. 16-0820, our Order No. 34368.

Respectfully submitted,

PEARNE & GORDON LLP

By _____

Michael W. Garvey, Reg. No. 35878

526 Superior Avenue East
Suite 1200
Cleveland, Ohio 44114-1484
(216) 579-1700

April 4, 2002

EL653124935US

No. 16116

Inventor / Applicant: TSUYOSHI SAKATA

Title: "AN INFORMATION PROVISION SYSTEM & APPARATUS.."

Serial No. _____ Patent No. _____

Filed: _____ Examiner 10/048779

Enclosed Are:

☑ PATENT APPLICATION (NEW/PCT-BASED)

✓ New Application Transmittal + 1 COPY

✓ Declaration & Power of Attorney (3 pgs)

8 Pgs. of Claims

23 Sheet(s) of Drawing(s) + 7 pgs OF CAPTIONS

____ Formal ✓ Informal

____ Small Entity Statements

____ Continuation or Division

____ Rule 60 ____ FWC 62

✓ Supplemental Declaration

☑ ASSIGNMENT

✓ Transmittal(s)

✓ Original (2 pgs) ____ Copies

☑ INFORMATION DISCLOSURE

____ PTO-1449 2 Refs.

Other SPECIFICATION (31 pgs) + ABSTRACT INTERNATL. SEARCH REPORT

CHECK(S) IN THE AMOUNT(S) OF

$ 1714.00 $ _____

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Docket No N6B34368 Int MWG/gfm

Date 1/31/2002

ACKNOWLEDGES RECEIPT OF:

JC18 Rec'd PCT/PTO 01 FEB 2002

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FROM: (PLEASE PRINT) PHONE (216) 579-1700

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526 SUPERIOR AVE E STE 1200
CLEVELAND OH 44114-1484

MWG:jlm 1/31/2002 NGB34368

TO: (PLEASE PRINT) PHONE ( )

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Commissioner for Patents
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Express Mail PO-ADD			
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Nextday Noon /Normal Delivery			
Paid by account:			$16.25
EMCA account number:			441953

Total: $0.00

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Clerk: 12

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"EXPRESS MAIL" MAILING LABEL CERTIFICATE

Re: U.S. PCT-based Patent Application for
"AN INFORMATION PROVISION SYSTEM AND APPARATUS THAT CONSTITUTE THE SYSTEM"
International Application No.: PCT/JP01/04564
International Filing Date: May 30, 2001
Attorney's Docket No.: 34368

"Express Mail" mailing label number EL653124935US

Date of Deposit January 31, 2002

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231

Janet Morrison
Printed Name of Person Mailing Paper or Fee

Janet Morrison
Signature of Person Mailing Paper or Fee

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APR 11 2002
PCT INITIAL PROCESSING

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APR 09 2002
USPTO MAIL CENTER

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FIRST CLASS MAIL

IC20 Rec'd PCT/PTO 09 APR 2002
10/048779

PEARNE & GORDON LLP
526 SUPERIOR AVENUE EAST
SUITE 1200
CLEVELAND, OHIO 44114-1484

TO:

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Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 2327
Arlington, VA 22202-2327

MAY 2 2 2002

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Pearne & Gordon LLP
526 Superior Avenue East
Suite 1200
Cleveland, OH 44114-1484

In re Application of
SAKATA, Tsuyoshi
Application No.: 10/048,779
PCT No.: PCT/JP01/04564
Int. Filing Date: 30 May 2001
Priority Date: 02 June 2000
Docket No.: 34368
For: AN INFORMATION PROVISION SYSTEM AND APPARATUS THAT CONSTITUTE THE SYSTEM

DECISION

ON PETITION UNDER

37 CFR 1.10(c)

This decision is in response to applicants' "Request and Petition For Corrected Filing Date" filed 09 April 2002.

BACKGROUND

On 30 May 2001, applicant filed international application PCT/JP01/04564, which claimed a priority date of 02 June 2000. A copy of the international application was transmitted to the United States Patent and Trademark Office from the International Bureau (IB) on 13 December 2001. Accordingly, the twenty month period for paying the basic national fee expired at midnight on 04 February 2002 (02 February 2002 was a Saturday).

Applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee. It was accorded a filing date of 01 February 2002.

On 09 April 2002, applicant filed the instant "Request and Petition For Corrected Filing Date" accompanied by, *inter alia*, a post card receipt with Express Mail label number EL653124935US affixed, a copy of the Express Mail mailing label and the post office register receipt.

DISCUSSION

In the instant petition, applicant requests that the filing date of application No. 10/048,779 be amended to 31 January 2002. The requirements for a petition to correct a filing date based on Express Mail records are set forth in 37 CFR 1.10(c). The section states as follows:

> (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.

Items (1), (2) and (3) have been met. The petition was filed promptly. The Express Mail mailing label number was listed on the Express Mail certificate. Applicant has provided a copy of the Express Mailing mailing label with the "date-in" listed as 31 January 2002 and a copy of the register receipt listing the mailing label number and the date as 31 January 2002.

Applicant also requests a corrected filing receipt reflecting a 31 January 2002 date. The "filing date" on the filing receipt of a national stage application is the date upon which applicant completes the requirements under 35 U.S.C. §371(c). MPEP §1895.01 (A) (August 2001). Those requirements include an English translation of a foreign language international application. As the translation that accompanied the national stage submission was defective, the request for a filing receipt reflecting a 31 January 2002 filing date is refused.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(c) to correct the receipt date of the national stage submission from 01 February 2002 to 31 January 2002 is **GRANTED**.

The request for a filing receipt reflecting a 31 January 2002 filing date is **REFUSED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations to await receipt of a proper translation as required in the Notification of Missing Requirements mailed 12 April 2002.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

JC14 Rec'd PCT/PTO 10 JUN 2002

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Tsuyoshi Sakata

Serial No.: 10/048,779

Filed: February 1, 2002

Title: AN INFORMATION PROVISION SYSTEM AND APPARATUS THAT CONSTITUTE THE SYSTEM

Docket No.: 34368

PETITION TO THE COMMISSIONER UNDER 37 CFR 1.181

Box PCT
Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 2327
Arlington, VA 22202-2327

Sir/Madam:

Applicant submits that the "Notification of Missing Requirements under 35 U.S.C. 371" (hereinafter "Notification") was issued in error. The Notification specifically indicates that the text in the drawings was not properly translated.

However, the translation as submitted did contain a translation of all of the text of the drawings, attached on a separate page designated by reference numbers. The fact that the

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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 the date indicated below.

Aaron A. Fishman
Name of Attorney for Applicant(s)

June 7, 2002
Date

Signature of Attorney

drawings were not submitted having the foreign language replaced with English designations only creates a drawing informality, but does not make the translation incomplete or otherwise defective. Thus, applicants are entitled to the filing date and 35 U.S.C. 371 date of January 31, 2002, the mailing date of the application including a complete translation.

Therefore, Applicant hereby requests and petitions that the Notification be rescinded and the application be accorded a filing date of January 31, 2002. The required petition fee of $130 is enclosed herewith.

Respectfully submitted,

PEARNE & GORDON LLP

By: _____
Aaron A. Fishman, Reg. No. 44682

526 Superior Avenue, East
Suite 1200
Cleveland, Ohio 44114-1484
(216) 579-1700

Date: June 7, 2002

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CLEVELAND, OHIO 44114-1484

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Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 2327
Arlington, VA 22202-2327

10/048,779

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UNITED STATES PATENT AND TRADEMARK OFFICE

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Pearne & Gordon LLP
526 Superior Avenue East
Suite 1200
Cleveland, OH 44114-1484

In re Application of SAKATA, Tsuyoshi Application No.: 10/048,779 PCT No.: PCT/JP01/04564 Int. Filing Date: 30 May 2001 Priority Date: 02 June 2000 Docket No.: 34368 For: AN INFORMATION PROVISION SYSTEM AND APPARATUS THAT CONSTITUTE THE SYSTEM	NOTIFICATION OF DEFECTIVE RESPONSE

This notification is in response to applicant's "Petition to the Commissioner 37 CFR 1.181" filed on 10 June 2002.

BACKGROUND

On 30 May 2001, applicant filed international application PCT/JP01/04564, which claimed a priority date of 02 June 2000. A copy of the international application was transmitted to the United States Patent and Trademark Office from the International Bureau (IB) on 13 December 2001. Accordingly, the twenty month period for paying the basic national fee expired at midnight on 04 February 2002 (02 February 2002 was a Saturday).

Applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee. It was accorded a filing date of 01 February 2002.

On 09 April 2002, applicant filed the "Request and Petition For Corrected Filing Date" accompanied by, *inter alia*, a post card receipt with Express Mail label number EL653124935US affixed, a copy of the Express Mail mailing label and the post office register receipt.

On 22 May 2002, the Office mailed Decision on Petition Under 37 CFR 1.10(c) granting the request for a corrected receipt date, but refusing the request for a filing receipt.

On 10 June 2002, applicant submitted the instant petition requesting that the Office vacated the Notice of Missing Requirements (Form PCT/DO/EO/905) mailed 12 April 2002.

DISCUSSION

Applicant argues that the submission of a translation of the text of the drawings on a separate sheet of paper was not improper and that applicant is entitled to a 35 U.S.C. §371 date of 31 January 2002.

Applicant's attention is directed to PCT Rule 49.5(d), which states:

> If any drawing contains text matter, the translation of that text matter shall be furnished either in the form of a copy of the original drawing with the translation pasted on the original text matter or in the form of a drawing executed anew.

Applicant's submission of the original foreign language drawings with a translation of the text on a separate page does not comply with Rule 49.5(d).

CONCLUSION

The requests to vacate the Notification of Missing Requirements (Form PCT/DO/EO/905) and to issue a filing receipt reflecting a 31 January 2002 filing date are **REFUSED**.

Applicants are required to submit a translation in compliance with 35 U.S.C. §371(c)(2) within a time limit of **ONE (1) MONTH** from the mail date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements (Form PCT/DO/EO/905), whichever is longer. No extension of this time limit may be granted under 37 CFR 1.136(a), but the period for response set in the Notification of Missing Requirements may be extended up to a maximum of five months. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Response to Notification of Defective Response."

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

DT Rec'd PCT/PTO 14 AUG 2002

PATENT #8

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Tsuyoshi Sakata
Serial No.:	10/048,779
Filed:	January 31, 2002
Title:	"AN INFORMATION PROVISION SYSTEM AND APPARATUS THAT CONSTITUTE THE SYSTEM"
Docket No.:	34368

RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE

Box PCT
Asst. Commissioner of Patents and Trademarks
Washington, D.C. 20231

ATTN: Office of PCT Legal Administration

Sir/Madam:

In response to the Notification of Defective Response dated August 2, 2002 (copy enclosed); and the Notification of Missing Requirements (PCT/DO/EO/905) dated April 12, 2002 (copy enclosed), applicant submitted the required formal drawings in English text on April 29, 2002. The drawings were sent to Box PCT and received at the PCT/PTO Office on May 8, 2002, as indicated on the enclosed copy of the return receipt postcard. Accordingly, all the missing requirements of the application have been filed and no further action is required.

If there are any further fees resulting from this communication not covered by the enclosed check, or if no check was enclosed, please charge the same to Deposit Account No. 16-0820, Order No. 34368.

Respectfully submitted,
PEARNE & GORDON LLP

By_____
Michael W. Garvey, Reg. No. 35878

526 Superior Avenue, East
Suite 1200
Cleveland, Ohio 44114-1484
(216) 579-1700

August 9, 2002

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 of Patents, Washington, D.C. 20231 on the date indicated below.

Michael W. Garvey
Name of Attorney for Applicant(s)

August 9, 2002
Date **Signature of Attorney**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Box PCT
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/048,779	Tsuyoshi Sakata	34368

INTERNATIONAL APPLICATION NO.
PCT/JP01/04564

I.A. FILING DATE	PRIORITY DATE
05/30/2001	06/02/2000

Michael W Garvey
Suite 1200
526 Superior Avenue East
Cleveland, OH 44114-1484

CONFIRMATION NO. 6087

371 FORMALITIES LETTER

OC000000007852449

Date Mailed: 04/12/2002

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated Office (37 CFR 1.494):

- U.S. Basic National Fees
- Priority Document
- Assignee Statement
- Copy of references cited in ISR
- Copy of the International Application
- Copy of the International Search Report
- Information Disclosure Statements
- Oath or Declaration

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PEARNE & GORDON LLP

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Translation of the application into English. The current translation of the application into English is defective as described below.
  - The text in the drawings has not been properly translated.
- Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 months from the priority date (37 CFR 1.492(f)).

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTH FROM THE DATE OF THIS NOTICE OR BY 22 or 32 MONTHS (where 37 CFR 1.495 applies) FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

SUMMARY OF FEES DUE:

Total additional fees required for this application is **$130** for a Large Entity:

- **$130** for English translation surcharge required.

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

BARBARA A CAMPBELL

Telephone: (703) 305-3631

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/048,779	PCT/JP01/04564	34368

FORM PCT/DO/EO/905 (371 Formalities Notice)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Tsuyoshi Sakata
Serial No.:	10/048,779
Filed:	January 31, 2002
Title:	"AN INFORMATION PROVISION SYSTEM AND APPARATUS THAT CONSTITUTE THE SYSTEM"
Docket No.:	34368

LETTER

Commissioner for Patents
BOX PCT
Washington, D.C. 20231

Sir/Madam:

In response to the Notice to File Missing Parts of Application - Filing Date Granted (PTO 1533) dated April 12, 2002, (copy enclosed), the required formal drawings including the English text are enclosed herewith for filing in the above-identified application. The original drawings had Japanese text with English translations attached. The application including the specification, claims and abstract filed on January 31, 2002 was in English text, and therefore the $130.00 fee for English translation surcharge is not required. Accordingly, all the missing parts of the application have been filed and no further action is required.

If there are any further fees resulting from this communication please charge the same to Deposit Account No. 16-0820, Order No. 34368

Respectfully submitted,

PEARNE & GORDON LLP

By_____
Michael W. Garvey, Reg. No. 35878

526 Superior Avenue East
Suite 1200
Cleveland, Ohio 44184-1484
(216) 579-1700

April 29, 2002

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 of Patents, Washington, D.C. 20231 on the date indicated below.

Michael W. Garvey
Name of Attorney for Applicant(s)

April 29, 2002
Date **Signature of Attorney**

No. 16754

Inventor / Applicant: Tsuyoshi Sakata

Title: An information Provision System and Apparatus...

Serial No. 10/048,779 Patent No.

Filed: January 31, 2002 Examiner

Enclosed Are:

☐ **PATENT APPLICATION**

- ____ New Application Transmittal
- ____ Declaration & Power of Attorney
- ____ Pgs. of Claims
- ✓ Sheet(s) of Drawing(s)
  - 17 Formal ____ Informal
- ____ Small Entity Statements
- ____ Continuation or Division
  - ____ Rule 60 ____ FWC 62
- ____ Supplemental Declaration

☐ **ASSIGNMENT**

- ____ Transmittal(s)
- ____ Original ____ Copies

☐ **INFORMATION DISCLOSURE**

- ____ PTO-1449 ____ Refs.

Other transmittal letter & copy notice missing ports

CHECK(S) IN THE AMOUNT(S) OF

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Docket No. NSB 34368 Int. MWG-tb

Date April 29 -02

ACKNOWLEDGES RECEIPT OF:

JC14 Rec'd PCT/PTO 08 MAY 2002

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Pearne & Gordon LLP
526 Superior Avenue East
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Cleveland, OH 44114-1484

In re Application of
SAKATA, Tsuyoshi
Application No.: 10/048,779
PCT No.: PCT/JP01/04564
Int. Filing Date: 30 May 2001
Priority Date: 02 June 2000
Docket No.: 34368
For: AN INFORMATION PROVISION SYSTEM AND APPARATUS THAT CONSTITUTE THE SYSTEM

NOTIFICATION

OF

DEFECTIVE RESPONSE

This notification is in response to applicant's "Petition to the Commissioner 37 CFR 1.181" filed on 10 June 2002.

BACKGROUND

On 30 May 2001, applicant filed international application PCT/JP01/04564, which claimed a priority date of 02 June 2000. A copy of the international application was transmitted to the United States Patent and Trademark Office from the International Bureau (IB) on 13 December 2001. Accordingly, the twenty month period for paying the basic national fee expired at midnight on 04 February 2002 (02 February 2002 was a Saturday).

Applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee. It was accorded a filing date of 01 February 2002.

On 09 April 2002, applicant filed the "Request and Petition For Corrected Filing Date" accompanied by, *inter alia*, a post card receipt with Express Mail label number EL653124935US affixed, a copy of the Express Mail mailing label and the post office register receipt.

On 22 May 2002, the Office mailed Decision on Petition Under 37 CFR 1.10(c) granting the request for a corrected receipt date, but refusing the request for a filing receipt.

On 10 June 2002, applicant submitted the instant petition requesting that the Office vacated the Notice of Missing Requirements (Form PCT/DO/EO/905) mailed 12 April 2002.

DISCUSSION

Applicant argues that the submission of a translation of the text of the drawings on a separate sheet of paper was not improper and that applicant is entitled to a 35 U.S.C. §371 date of 31 January 2002.

Applicant's attention is directed to PCT Rule 49.5(d), which states:

> If any drawing contains text matter, the translation of that text matter shall be furnished either in the form of a copy of the original drawing with the translation pasted on the original text matter or in the form of a drawing executed anew.

Applicant's submission of the original foreign language drawings with a translation of the text on a separate page does not comply with Rule 49.5(d).

CONCLUSION

The requests to vacate the Notification of Missing Requirements (Form PCT/DO/EO/905) and to issue a filing receipt reflecting a 31 January 2002 filing date are **REFUSED**.

Applicants are required to submit a translation in compliance with 35 U.S.C. §371(c)(2) within a time limit of **ONE (1) MONTH** from the mail date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements (Form PCT/DO/EO/905), whichever is longer. No extension of this time limit may be granted under 37 CFR 1.136(a), but the period for response set in the Notification of Missing Requirements may be extended up to a maximum of five months. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Response to Notification of Defective Response."

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

MAY 22 2002

NGB 34368

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COMMISSIONER FOR PATENTS
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Pearne & Gordon LLP
526 Superior Avenue East
Suite 1200
Cleveland, OH 44114-1484

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MAY 28 2002
PEARNE & GORDON LLP

In re Application of
SAKATA, Tsuyoshi
Application No.: 10/048,779
PCT No.: PCT/JP01/04564
Int. Filing Date: 30 May 2001
Priority Date: 02 June 2000
Docket No.: 34368
For: AN INFORMATION PROVISION SYSTEM AND APPARATUS THAT CONSTITUTE THE SYSTEM

DECISION

ON PETITION UNDER

37 CFR 1.10(c)

This decision is in response to applicants' "Request and Petition For Corrected Filing Date" filed 09 April 2002.

BACKGROUND

On 30 May 2001, applicant filed international application PCT/JP01/04564, which claimed a priority date of 02 June 2000. A copy of the international application was transmitted to the United States Patent and Trademark Office from the International Bureau (IB) on 13 December 2001. Accordingly, the twenty month period for paying the basic national fee expired at midnight on 04 February 2002 (02 February 2002 was a Saturday).

Applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee. It was accorded a filing date of 01 February 2002.

On 09 April 2002, applicant filed the instant "Request and Petition For Corrected Filing Date" accompanied by, *inter alia*, a post card receipt with Express Mail label number EL653124935US affixed, a copy of the Express Mail mailing label and the post office register receipt.

DISCUSSION

In the instant petition, applicant requests that the filing date of application No. 10/048,779 be amended to 31 January 2002. The requirements for a petition to correct a filing date based on Express Mail records are set forth in 37 CFR 1.10(c). The section states as follows:

> (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

Exhibit "B"

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.

Items (1), (2) and (3) have been met. The petition was filed promptly. The Express Mail mailing label number was listed on the Express Mail certificate. Applicant has provided a copy of the Express Mailing mailing label with the "date-in" listed as 31 January 2002 and a copy of the register receipt listing the mailing label number and the date as 31 January 2002.

Applicant also requests a corrected filing receipt reflecting a 31 January 2002 date. The "filing date" on the filing receipt of a national stage application is the date upon which applicant completes the requirements under 35 U.S.C. §371(c). MPEP §1895.01 (A) (August 2001). Those requirements include an English translation of a foreign language international application. As the translation that accompanied the national stage submission was defective, the request for a filing receipt reflecting a 31 January 2002 filing date is refused.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(c) to correct the receipt date of the national stage submission from 01 February 2002 to 31 January 2002 is **GRANTED**.

The request for a filing receipt reflecting a 31 January 2002 filing date is **REFUSED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations to await receipt of a proper translation as required in the Notification of Missing Requirements mailed 12 April 2002.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 12

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

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OFFICE OF PETITIONS

In re Application of
Salama et al.
Application No. 10/048,799
Filed: May 1, 2002
Attorney Docket No. 40770-000126/US

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 30, 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 December 19, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on March 20, 2003. A Notice of Abandonment was mailed on July 16, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 2800 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

APR 26 2002

#4

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Knobbe, Martens, Olson & Bear
620 Newport Center Drive, Sixteenth Floor
Newport Beach, CA 92660

In re Application of MITSUHASHI, Masato Application No.: 10/048,800 PCT Application No.: PCT/US98/27293 International Filing Date: 22 December 1998 Priority Date: 22 December 1997 Attorney Docket No.: HITACHI.031A For: DIRECT RT-PCR ON OLIGONUCLEOTIDE-IMMOBILIZED PCR MICROPLATES	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's petition "For Revival of This Application," filed in the United States Patent and Trademark Office on 31 January 2002 is **GRANTED**.

BACKGROUND

On 22 December 1998, applicant filed an international application, No. PCT/US98/27293, which claimed a priority date of 22 December 1997. On 22 July 1999, a demand for international preliminary examination was filed, prior to the expiration of nineteen months from the priority date. As such, the deadline for entering the national stage in the United States was 22 June 2000.

On 31 January 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, a petition to revive the international application; the requisite petition fee; and the requisite basic national fee as required by 35 U.S.C. §371(c)(1).

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicant states "the delay in complying with the requirements referred to above was unintentional." This is construed to mean that the entire delay in filing the required reply from the

due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional as required by 37 CFR 1.137(b)(3). If this is not a correct interpretation, petitioner must notify PTO. The appropriate national fee, petition fee and international application have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 U.S.C. 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

The application has an international filing date of 22 December 1998 under 35 U.S.C. §363 and a date of 31 January 2002 under 35 U.S.C. §371. This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Leonard E. Smith

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

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VOLENTINE FRANCOS, & WHITT
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON VA 20190

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DEC 15 2004

OFFICE OF PETITIONS

In re Application of :
Ulrik Darling Larsen :
Application No. 10/048,835 :
Filed: February 6, 2002 :
Attorney Docket No. 2836-0124P :

ON PETITION

This is a decision on the petition, filed December 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 March 31, 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 2855 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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

In re Application of	:	
Regina Reszka et al	:	
Application No. 10/048,840	:	DECISION ON PETITION
Filed: April 8, 2002	:	TO WITHDRAW
Attorney Docket No. 3658-0105P	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 28, 2006.

The petition is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Mark J. Nuell, Ph.D. on behalf of all attorneys/agents of record who are associated with customer No. 02292.

All attorneys/agents associated with customer No. 00292 have been withdrawn.

Applicants are reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named 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 inventor at the first copies address below until otherwise properly notified by the applicants.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This application is being referred to Technology Center AU 3738.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: REGINA RESZKA
GOETHESTRASSE 23
16341 SCHWANEBECK
GERMANY

BUCHANAN INGERSOLL PC
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301 GRANT STREET, 20TH FLOOR
PITTSBURGH, PA 15219-1410

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
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Washington, D.C. 20231

#4

MAY 8 2002

In re Application of Honchin En :
Serial No. 10/048,852 : DECISION ON PETITION UNDER
Filed: 02/06/02 : 37 CFR 1.84
For: ELECTROPLATING SOLUTION, METHOD FOR FABRICATING MULTILAYER PRINTED WIRING BOARD USING THE SOLUTION, AND MULTILAYER PRINTED WIRING BOARD

This is a decision on the petition to accept color photographs filed 02/06/02 under 37 CFR 1.84.

The petition is denied.

Petitions to accept color photographs, according to 37 CFR 1.84 must include the following:

1) the fee set forth in 35 USC 1.17(h);
2) Three (3) sets of color photographs;
3) A black and white photocopy that accurately depicts, to the extent possible, the subject matter shown in the color drawing; and
4) An amendment to the specification (unless the specification contains or has been previously amended to contain) the following language as the first paragraph of the brief description of the drawings:

--The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.--

In this instance, the petitioner has failed to provide numbers 3 and 4 above. The entry of color photographs as drawings cannot be approved at this time.

Dean A. Reichard 5/7/02

Dean A. Reichard, Supervisory Patent Examiner
Technology Center 2800
(703)308-3682

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JAN 11 2006

OFFICE OF PETITIONS

In re Application of	:
Honchin En	:
Application No. 10/048,852	: DECISION GRANTING PETITION
Filed: April 11, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q68304	:

This is a decision on the petition, filed January 10, 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 14, 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 2841 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (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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JUL 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Honchin En	:	
Application No. 10/048,852	:	DECISION GRANTING PETITION
Filed: April 11, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q68304	:	

This is a decision on the petition, filed July 17, 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 March 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) 272-3218.

This matter is being referred to Technology Center AU 2841 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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OFFICE OF PETITIONS

In re Application of	:
Honchin En	:
Application No. 10/048,852	: DECISION GRANTING PETITION
Filed: April 11, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q68304	:

This is a decision on the petition, filed May 25, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 13, 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 2841 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment.*

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OFFICE OF PETITIONS

In re Application of	:	
EN, Honchin	:	
Application No. 10/048,852	:	DECISION GRANTING PETITION
Filed: April 11, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q68304	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January, 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 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 should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2841 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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In re Application of :
Honchin En :
Application No. 10/048,852 : ON PETITION
Filed: April 11, 2002 :
Attorney Docket No. Q68304

This is a decision on the petition, filed November 24, 2008 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 22, 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]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2841 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

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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).

30 SEP 2002

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Donald A. Schurr
Marshall & Melhorn
8th Floor
Four SeaGate, IA 43604

In re Application of	:	
HOLLAND et al.	:	
Application No.: 10/048,862	:	
PCT No.: PCT/GB00/02966	:	DECISION
Int. Filing Date: 01 August 2000	:	
Priority Date: 04 August 1999	:	
Attorney Docket No.: 1-15679	:	
For: FIRE RESISTANT GLAZING	:	

This is a decision on applicants' "Petition to the Commissioner to Accord the Correct Filing Date under 37 CFR 1.10" filed in the United States Patent and Trademark Office (USPTO) on 17 July 2002.

BACKGROUND

On 04 February 2002, applicants timely filed a request to enter into the national stage under 35 U.S.C. 371 along with the appropriate basic national filing fee, a copy of the international application, and a preliminary amendment.

On 17 April 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) and a NOTIFICATION OF A DEFECTIVE OATH OR DECLARATION (Form PCT/DO/EO/917) indicating that the declaration was not in compliance with 37 CFR 1.497, and that a new oath or declaration in compliance with 37 CFR 1.497 along with a surcharge for providing the oath or declaration later than 30 months from the priority date were required.

On 25 April 2002, applicants filed an executed declaration and power of attorney. The executed declaration was date stamped as received in the PTO on 26 April 2002.

On 23 May 2002, a Notification of Acceptance was issued identifying the 35 U.S.C. 371(c) date as 26 April 2002. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 26 April 2002.

On 17 July 2002, applicants filed the present request to correct the filing date to 25 April 2002. The request to correct the filing date included a copy of the Customer Receipt of the United States Postal Service "Express Mail" mailing label #EL469907161US.

DISCUSSION

On 17 July 2002, applicants filed the petition requesting that the filing date on the Notification of Acceptance and Official Filing Receipt be corrected to indicate the correct date on which the declaration was filed and on which the requirements under 35 U.S.C. 371 (c) were completed; i.e., 25 April 2002.

A copy of the Customer Copy of the "Express Mail" label No.#EL469907161US filed with the petition bears a "Date In" 25 April 2002, and further information obtained from the United States Postal Service (USPS) Express Mail database shows that "EL469907161US" was accepted by the USPS on 25 April 2002. The same "Express Mail" label number was placed on the "Response to Notification of Missing Requirements under 35 U.S.C. 371" and the declaration located in the application file, but was date stamped as received in the PTO on 26 April 2002.

Pursuant to 37 CFR 1.10 (c), the promptly presented evidence is convincing that the executed declaration was filed on 25 April 2002. Thus, the application met the requirements of 35 U.S.C. 371(c) and thus entered the national stage in the United States on 25 April 2002, and therefore the indication of a filing date of 26 April 2002, on the NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 and the Official Filing Receipt are incorrect.

CONCLUSION

Applicants' request for issuance of a corrected Notification of Acceptance and Official Filing Receipt is **GRANTED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed on 23 May 2002 is hereby **VACATED**.

The application has an international filing date of 01 August 2000 under 35 U.S.C. 363 and a date of **25 April 2002** under 35 U.S.C. 371(c).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) which identifies a date of **25 April 2002** U.S.C. 371(c) and preparation and mailing of a corrected

Filing Receipt in accordance with this decision, that is a filing receipt that identifies a filing date of **25 April 2002**.

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

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OFFICE OF PETITIONS

In re Application of
Bartsch et al.
Application No. 10/048,864
Filed: March 6, 2002
Attorney Docket No.:20794/0205569-US0

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 2, 2007, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action March 25, 2004. The Office Action set a three (3) month shortened statutory period for reply. No timely extensions of time were obtained under the provisions of 37 CFR 1.136(a). An untimely reply to the Office action was received on October 11, 2006. Accordingly, this application became abandoned on June 25, 2004. A Notice of Abandonment was mailed on November 3, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional"; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the

abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03 (c)(III)(c) and (D).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation. 35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (3 years before the first petition was filed) in resuming prosecution, there is a question whether the entire delay was unintentional.

Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on June 26, 2004. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s)and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp.,2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require

applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 3 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at the Offices of Karl Hormann and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
>
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

It is not apparent whether the 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.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

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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Church Street Station
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OFFICE OF PETITIONS

In re Application of
Bartsch et al.
Application No. 10/048,864
Filed: March 6, 2002
Attorney Docket No.:20794/0205569-US0

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 21, 2008, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action March 25, 2004. The Office Action set a three (3) month shortened statutory period for reply. No timely extensions of time were obtained under the provisions of 37 CFR 1.136(a). An untimely reply to the Office action was received on October 11, 2006. Accordingly, this application became abandoned on June 25, 2004. A Notice of Abandonment was mailed on November 3, 2004. A petition filed under 37 CFR 1.137(b) was dismissed February 22, 2008.

This petition is hereby **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 amendment, (2) the petition fee of $1500.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing

of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

This application is being referred to Technology Center AU 1744 for appropriate action by the Examiner in the normal course of business on the reply received

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Joseph A. Sawyer
2465 East Bayshore Road, Suite 406
Palo Alto, CA 94303

24 JUL 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Edward A. Pennington
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, DC 20007-5116

In re Application of	:	
HJORTSTAM, Olof et al.	:	
Application No.: 10/048,889	:	DECISION ON
PCT Application No.: PCT/SE01/00698	:	
International Filing Date: 30 March 2001	:	PETITION
Priority Date: 30 March 2000	:	
Attorney Docket No.: 19387.0006	:	UNDER 37 CFR 1.137(b)
For: CONDUCTING MATERIAL	:	

Applicants' "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office on 05 February 2002 is **GRANTED**.

BACKGROUND

On 30 March 2001, applicants filed international application number PCT/SE01/00698, which claimed a priority date of 30 March 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) by the International Bureau on 11 October 2000. The deadline for entry into the United States National Stage was twenty months from the priority date, that is 30 November 2001.

On 05 February 2002, applicants filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, a petition to revive and the basic national fee.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfies the requirements of 37 CFR 1.137(b)(3). Applicants have paid both the

petition fee and the basic national fee. A terminal disclaimer is not required as application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

The application has an international filing date of 30 March 2001 under 35 U.S.C. §363 and a date of 05 February 2002 under 35 U.S.C. §371. This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Leonard Smith

for Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

26 APR 2005

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CISLO & THOMAS
233 Wilshire Boulevard
Suite 900
Santa Monica, California 90401-1211

In re Application of:	:	
WITHAM, David, L., et al.	:	DECISION ON PETITION TO
U.S. Application No.: 10/048,904	:	REVIVE ABANDONED
PCT No.: PCT/US00/25319	:	APPLICATION UNDER 37
International Filing Date: 15 September 2000	:	CFR 1.137(b)
Priority Date: 15 September 1999	:	
Attorney's Docket No.: 03-12526	:	
For: APPLIANCE FOR DISINFECTION OF HVAC SYSTEMS	:	

The petition to revive under 37 CFR 1.137(b) filed 28 December 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the declaration or any other delay from any reply until the filing of this petition pursuant to 37 CFR 1.137(b) was entirely unintentional" and the other explanatory statements in the petition are construed as being the statement required by 37 CFR 1.137(b)(3), that is, a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional." Applicants **must** notify this Office if this is **not** a correct interpretation of these statements. Based on this interpretation of the statements contained in the petition meet the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted a statement confirming that the intent herein was for a national stage of PCT/US00/25319, a corrected Form PTO-1390 that identifies the proper international application number, and a revised declaration that executes the correct application.[1] The basic national fee had previously been submitted, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

---

[1] Because this declaration was submitted later than thirty months after the priority date, Deposit Account No. 03-2030 will be charged the applicable $65 small entity surcharge.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 28 December 2004.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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MAY 25 2007

OFFICE OF PETITIONS

Patent No. 7,138,432	:	LETTER REGARDING
Issue Date: November 21, 2006	:	PATENT TERM ADJUSTMENT
Application No. 10/048,932	:	AND
Filed: February 5, 2002	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 4-31108A	:	CERTIFICATE OF CORRECTION

This letter is in response to the "COMMUNICATION REGARDING "FINAL" PATENT TERM ADJUSTMENT" filed December 19, 2006. Pursuant to patentees' duty of good faith and candor to the Office, patentees disclose that the Patent Term Adjustment for the above-identified patent should be 0 days.

The request for reconsideration of patent term adjustment indicated in the patent is **GRANTED to the extent indicated herein**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred twenty-three (123) days.

On November 21, 2006, this application matured into U.S. Patent No. 7,138,432, with a revised patent term adjustment of 262 days. Patentees provide three basis upon which the PTO inadvertently credited extra days of patent term adjustment to patentees: 1) the PTO failed to debit Applicants 31 days,

pursuant to 37 CFR 1.704(b), for a late response (received January 24, 2003) to the Notice to File Missing Requirements dated September 24, 2002; 2) the PTO failed to debit Applicants 104 days, pursuant to 37 CFR 1.704(c)(7), for filing of a response on May 8, 2003, which corrected an omission in the response received on January 24, 2003; and 3) the PTO credited the Applicants 465 days because it inadvertently utilized February 5, 2002 as the date that all of the 35 USC 371 requirements were received when, in fact, the correct date is May 8, 2003, and thus, patentees disclose the period of adjustment for the 14-month period for issuing a first "substantive" Office action on July 14, 2003 is only 5 days.

With respect to bases ##1 and 2 above, patentees are correct that periods of reductions of 31 and 104 days should have been entered for the reasons stated. Accordingly, these periods of reduction have been entered.

However, with respect to basis #3 for correction of the patent term adjustments, patentees are incorrect. May 8, 2003 is not the date of receipt of all 35 U.S.C. 371 requirements. Rather, on that date, applicants submitted a corrected Sequence Listing. As stated on the NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 and 37 CFR 1.495 mailed November 6, 2003, the date of receipt of all 35 U.S.C. 371 requirements was February 9, 2002 (also not February 5, 2002). Thus, the period of adjustment pursuant to 37 CFR 1.702(a)(1) has been corrected from 465 days to 461 days.

In view thereof, the patent should have issued with a revised patent term adjustment of one hundred twenty-three (123) days.

As this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **ONE HUNDRED TWENTY-THREE (123)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,138,432 B1

DATED : November 21, 2006

INVENTOR(S) : Breitenstein et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (262) days

Delete the phrase "by 262" and insert – by 123 days--

05 AUG 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Edward A. Pennington
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3000 K Street, N.W., Suite 300
Washington, DC 20007-5116

In re Application of	:	
HJORTSTAM, Olof et al.	:	
Application No.: 10/048,960	:	DECISION ON
PCT Application No.: PCT/SE01/00697	:	
International Filing Date: 30 March 2001	:	PETITION
Priority Date: 30 March 2000	:	
Attorney Docket No.: 19387.0005	:	UNDER 37 CFR 1.137(b)
For: INDUCTION WINDING	:	

Applicants' "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office on 05 February 2002 is **GRANTED**.

BACKGROUND

On 30 March 2001, applicants filed international application number PCT/SE01/00697, which claimed a priority date of 30 March 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) by the International Bureau on 11 October 2001. The deadline for entry into the United States National Stage was twenty months from the priority date, that is 30 November 2001.

On 05 February 2002, applicants filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, a petition to revive and the basic national fee.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfies the requirements of 37 CFR 1.137(b)(3). Applicants have paid both the

petition fee and the basic national fee. A terminal disclaimer is not required as application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

The surcharge for late filing of the oath or declaration will be charged to deposit account no. 19-5127, as authorized by the transmittal letter.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

The application has an international filing date of 30 March 2001 under 35 U.S.C. §363 and a date of 05 February 2002 under 35 U.S.C. §371. This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Leonard E Smith

for Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender

Erin M. Pender
Attorney Advisor
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Telephone: (703) 305-0455
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PRINCETON NJ 08543-5203

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JUL 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Engel, et al.	:	
Application No. 10/048,966	:	DECISION
Filing Date: 6 February, 2002	:	
Attorney Docket No.: (None)//DEEP-4/N1294-4	:	

This is a decision on the petition filed on 5 June, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 14 July, 2005, with reply due absent extension of time on or before Tuesday, 14 October, 2005;

- on 14 December, 2005, Petitioner submitted (with request and fee for extension of time) an amendment after final, which is not of right–the Examiner found that it was not a proper reply,[1] and mailed an Advisory action on 12 January, 2006;

[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

- the instant application went abandoned after midnight 14 December, 2005;
- the Office mailed a Notice of Abandonment on 15 March, 2006;
- on 6 June, 2006, Petitioner filed the instant petition with fee, a reply in the form of a request for continued examination (RCE), with fee and submission in the form of an amendment, in conformance with 37 C.F.R. §1.114, and made the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not

---

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

constitute the care required under Pratt,[7] and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to the Examiner in Technology Center 2100 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[7] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[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.

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Bryan M. Failing
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TWO NORTH MARKET STREET, THIRD FLOOR
SAN JOSE CA 95113

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In re Application of	:	
Gabriel Engel et al.	:	
Application No. 10/048,966	:	DECISION ON PETITION
Filed: February 6, 2002	:	
Attorney Docket No. PURE-P003US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 18, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 19, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 2175 for appropriate action by the Examiner in the normal course of business on the reply received.

Irvin Dingle
Petitions Examiner
Office of Petitions

18 MAY 200

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OBLON SPIVAK McCLELLAND MAIER & NEUSTADT
1940 Duke Street
Alexandria, VA 22314

In re Application of	:	
HIROTA, Naohiko, et al.	:	
U.S. Application No.: 10/048,987	:	DECISION ON PETITION TO
PCT No.: PCT/JP00/05476	:	WITHDRAW HOLDING OF
International Filing Date: 16 August 2000	:	ABANDONMENT
Priority Date: 16 August 1999	:	(37 CFR 1.181)
Attorney's Docket No.: 219073US0PCT	:	
For: CONSTRUCTION OF BARLEY WITH	:	
DECREASED GEL PROTEIN CONTENT	:	

This decision is issued in response to the "Petition Under 37 CFR 1.181 To Withdraw Holding Of Abandonment" filed on 30 January 2004. No petition fee is required.

BACKGROUND

On 16 August 2000, applicants filed international application PCT/JP00/05476 which claimed a priority date of 16 August 1999 and which designated the United States. On 22 February 2001, a copy of the international application was transmitted to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

A Demand was filed with the International Preliminary Examining Authority electing the United States prior to the expiration of 19 months from the priority date. As a result, the deadline for payment of the basic national fee was 30 months from the priority date, i.e., 19 February 2002 (16 February 2002 was a Saturday and the USPTO was closed for a federal holiday on 19 February 2002).

On 19 February 2002, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, among other materials, payment of the basic national fee, an executed declaration, and a translation of the international application into English.

On 25 April 2002 February 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that additional sequence listing materials were required. The Notification also informed applicants that the failure to submit these materials within one month of the date of the Notification would result in abandonment of the application.

On 03 December 2003, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a response to the Notification Of Missing Requirements

On 30 January 2004, applicants filed the petition considered herein. The petition asserts that applicants did not receive the Notification Of Missing Requirements mailed 25 April 2002, and that the holding of abandonment should therefore be withdrawn..

DISCUSSION

Section 711.03(c)II of the MPEP sets forth the requirements for a grantable petition to confirm the failure to receive an Office communication:

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Here, the petition contains the required statements from the practitioner that the Notification Of Missing Requirements was not received and that "a search of the file jacket and docket records in our office indicates that the Office communication was not received." As for the docket records requirement, applicants have attached a copy of what appears to be a printout of the docket information for this particular docket number. However, the record with respect to this particular file is not sufficient to satisfy the docket records requirement. Rather, applicants must provide a copy of their office docket for the date on which a response to the Notification Of Missing Requirements would have been required had the Notification been received (i.e., 25 June 2002).

Applicants have failed to satisfy all the requirements for a grantable petition. Accordingly, at the present time it cannot be concluded that applicants failed to receive the Notification Of Missing Requirements mailed 25 April 2002.

CONCLUSION

Applicants' petition to withdraw the holding of abandonment 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, and must include the additional docket materials

discussed above that are necessary for a grantable petition to demonstrate the failure to receive an Office communication.

Please direct further correspondence with respect to this matter 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.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

07 JUN 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

#10

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1940 Duke Street
Alexandria, VA 22314

In re Application of	:	
HIROTA, Naohiko, et al.	:	
U.S. Application No.: 10/048,987	:	DECISION ON RENEWED
PCT No.: PCT/JP00/05476	:	PETITION TO WITHDRAW
International Filing Date: 16 August 2000	:	HOLDING OF ABANDONMENT
Priority Date: 16 August 1999	:	(37 CFR 1.181)
Attorney's Docket No.: 219073US0PCT	:	
For: CONSTRUCTION OF BARLEY WITH	:	
DECREASED GEL PROTEIN CONTENT	:	

In a decision mailed by this Office on 18 May 2004, applicant's petition to withdraw the holding of abandonment was dismissed without prejudice for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had not provided the docket records required for a grantable petition to confirm that applicants did not receive the Notification Of Missing Requirements mailed herein on 25 April 2002.

On 01 June 2004, applicants filed the "Request For Reconsideration" treated herein as a renewed petition. The 01 June 2004 submission includes a copy of counsel's docket records for 25 June 2002, the date on which a response to the Notification Of Missing Requirements would have been required had the Notification been received.

Applicants have now satisfied all the requirements for a grantable petition. Accordingly, applicants' petition to confirm that the Notification Of Missing Requirements mailed 25 April 2002 was not received is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 03 December 2003, based as it was on applicants' failure to respond to the non-received Notification Of Missing Requirements, is therefore appropriately **VACATED**.

It is noted that applicants have now submitted the materials required by the non-received Notification Of Missing Requirements (i.e., sequence listing materials).

The application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 19 February 2002.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

29 APR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
ALEXANDRIA, VA 22313-1450
www.uspto.go

Stoel Rives LLP
201 South Main Street
One Utah Center
Salt Lake City, UT 84101

In re Application of:	:	
Andersen et al.	:	
Application No.: 10/049,016	:	DECISION
PCT No.: PCT/US01/07127	:	
Int. Filing Date: 06 March 2001	:	UNDER
Priority Date: 06 March 2000	:	
Atty. Docket No.: 3113.2.1.1	:	37 CFR 1.47
For: System And Method For Creating A Searchable	:	
Word Index Of A Scanned Document Including...	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 06 March 2003.

BACKGROUND

This international application was filed on 06 March 2001 and claimed earliest priority of an application filed on 06 March 2000. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 06 September 2002. On 06 February 2002, applicants filed *inter alia* the basic national fee.

On 22 July 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Petitioner has satisfied requirements (1), (2) and (3), but has not satisfied requirement (4).

Regarding requirement (1), the petition included authorization to charge the petition fee to counsel's Deposit Account, thereby satisfying requirement (1).

Regarding requirement (2), petitioner urges that non-signing joint inventors Michael U. Bailey and G. Bret Millar have refused to execute a declaration of the inventors. In support of this contention, petitioner states that counsel "sent a Declaration, Assignment, and a complete

copy of the application, including specification, claims and drawings, to Mr. Bailey by Federal Express," along with a prepaid, self-addressed return envelope. Petitioner states that Mr. Bailey received said correspondence on 10 February 2003, as corroborated by a copy of a Federal Express tracking report accompanying the petition. Similarly, counsel states that a "a Declaration, Assignment, and a complete copy of the application, including specification, claims and drawings" were sent to Mr. Millar via Federal Express, along with a prepaid, self-addressed return envelope. Petitioner states that Mr. Millar received said correspondence on 10 February 2003, as corroborated by a copy of a Federal Express tracking report accompanying the petition. Counsel states that neither Mr. Bailey nor Mr. Millar has returned a signed declaration to counsel, or otherwise contacted counsel, prior to the filing of the instant petition. Based on the totality of the evidence of record, it would be appropriate to conclude that requirement (2) has been satisfied.

Regarding requirement (3), the petition includes a statement the last known addresses of both Mr. Millar and Mr. Bailey. Accordingly, requirement (3) has been satisfied.

Regarding requirement (4), the declaration is not acceptable for purposes of compliance with 35 U.S.C. 371 because it is unclear whether each of the signing inventors signed a complete copy of the declaration. Rather, it appears that the declaration was assembled from single sheets signed by each of the signing inventors. Moreover, the sheets signed by Timothy Andersen and Robert Wille are illegible. In addition, the declaration names Timothy "Anderson," whereas the published international application names Timothy "Andersen." For these reasons, it would not be appropriate to accept the declaration filed on 06 March 2003.

CONCLUSION

The petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
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20 SEP 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

#8

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UNITED STATES PATENT AND TRADEMARK OFFIC
ALEXANDRIA, VA 22313-1450
www.uspto.go

Stoel Rives LLP
201 South Main Street
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Salt Lake City, UT 84101

In re Application of:	:	
Andersen et al.	:	
Application No.: 10/049,016	:	DECISION
PCT No.: PCT/US01/07127	:	
Int. Filing Date: 06 March 2001	:	UNDER
Priority Date: 06 March 2000	:	
Atty. Docket No.: 3113.2.1.1	:	37 CFR 1.47
For: System And Method For Creating A Searchable	:	
Word Index Of A Scanned Document Including...	:	

This is in response to the renewed petition under 37 CFR 1.47 filed on 08 June 2004.

BACKGROUND

This international application was filed on 06 March 2001 and claimed earliest priority of an application filed on 06 March 2000. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 06 September 2002. On 06 February 2002, applicants filed *inter alia* the basic national fee.

On 22 July 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors.

DISCUSSION

On 29 April 2004, a decision was mailed to counsel, dismissing without prejudice a petition under 37 CFR 1.47 filed on 06 March 2003. The petition was dismissed because

> "the declaration is not acceptable for purposes of compliance with 35 U.S.C. 371 because it is unclear whether each of the signing inventors signed a complete copy of the declaration. Rather, it appears that the declaration was assembled from single sheets signed by each of the signing inventors. Moreover, the sheets signed by Timothy Andersen and Robert Wille are illegible. In addition, the declaration names Timothy "Anderson," whereas the published international application names Timothy "Andersen." For these reasons, it would not be appropriate to accept the declaration filed on 06 March 2003."

The instant renewed petition is accompanied by a newly executed declaration which is acceptable under 37 CFR 1.497(a) and (b). Therefore, it would now be appropriate to grant the requested relief.

CONCLUSION

The petition is **GRANTED**.

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given an international filing date of 06 March 2001 under 35 U.S.C. 363. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is **08 June 2004**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to each of the non-signing inventors at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the National Stage Processing Branch for processing as the U.S. National Stage of the above-identified international application.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
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20 SEP 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
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G. Bret Millar
5032 Old Oak Lane
Highland, UT 84003

In re Application of
Andersen et al.
Application No. 10/049,016
PCT No.: PCT/US01/07127
Int. Filing Date: 06 March 2001
Priority Date: 06 March 2000
For: System And Method For Creating A Searchable Word Index Of A Scanned Document Including Multiple...

Dear Mr. Millar:

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) 308-6721. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for 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).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

Leonard Smith
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PCT Legal Office

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20 SEP 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
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Michael U. Bailey
540 North 350 West
Richfield, UT 84701

In re Application of
Andersen et al.
Application No. 10/049,016
PCT No.: PCT/US01/07127
Int. Filing Date: 06 March 2001
Priority Date: 06 March 2000
For: System And Method For Creating A Searchable Word Index Of A Scanned Document Including Multiple...

Dear Mr. Bailey:

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) 308-6721. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for 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).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

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OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known addresses of the non-signing inventors. The inventors whose signatures are missing (Michael U. Bailey and G. Bret Millar) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/US01/07127 and was filed on March 6, 2001 in the names of Timothy Andersen, Frederick Zarndt, Robert Wille, Michael Rimer, Michael Bailey, Bret Millar and Derek Rowley for the invention entitled SYSTEM AND METHOD FOR CREATING A SEARCHABLE WORD INDEX OF A SCANNED DOCUMENT INCLUDING MULTIPLE INTERPRETATIONS OF A WORD AT A GIVEN DOCUMENT LOCATION. The national stage application number is 10/049,016 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of June 8, 2004.

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MCLEAN, VA 22102-3833

Mail Date: 04/20/2010

Applicant	: Patrice Hameau	: DECISION ON REQUEST FOR
Patent Number	: 7602920	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/049,025	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/08/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2138** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **March 17, 2008**

TO SPE OF : ART UNIT **1626**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/049039** Patent No.: **6841519 B1**

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

SPE

1624
Art Unit

#9
DW

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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OFFICE OF THE DIRECTOR
TC 3600

Venable, Baetjer, Howard and Civiletti, LLP
P.O. Box 34385
Washington, DC 20043-9998

In re Application of	:	
Dick Eriksson	:	DECISION ON PETITION
Application No. 10/049,040	:	TO WITHDRAW THE
Filed: February 8, 2002	:	HOLDING OF ABANDONMENT
For: AIR-BAG ARRANGEMENT	:	

This is in response to applicant's petition to withdraw the holding of abandonment filed June 16, 2004.

The petition is **GRANTED**.

A review of the file record reveals that an Office action was mailed to applicant on September 12, 2003. Since a response was not received before the expiration of the six month statutory period for reply, the application was held abandoned, and a Notice to that effect was mailed on April 15, 2004.

Applicant's petition asserts that the Office action mailed September 12, 2003 was not received.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Service, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of December 12, 2003. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The petition attests 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 as being due on December 12, 2003 has been submitted. This evidence is acceptable proof of non-receipt as provided by 1156 OG 53.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status and to redate and remail the Office Action of December 17, 2002 based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

Randolph A. Reese
Special Program Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/vdb: 7/8/04

MAY 16 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Rader, Fishman & Grauer, L.P.P.C.
1233 20th Street, N.W., Suite 501
Washington, DC 20036

In re Application of	
Kouji ISHIDA et al	
Application No.: 10/049,051	DECISION ON
PCT No.: PCT/JP01/04427	
Int. Filing Date: 28 May 2001	PETITION UNDER
Priority Date: 02 June 2000	
Attorney's Docket No.: DOI-003	37 CFR 1.137(b)
For: SUBSTRATE-SELECTING EQUIPMENT	

This is in response to the "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)" filed on 07 February 2002.

BACKGROUND

On 28 May 2001, this international application was filed, claiming an earliest priority date of 02 June 2000.

No Demand electing the United States was filed in this international application Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.494 was 02 February 2002. This international application became abandoned with respect to the United States at midnight on 02 February 2002 for failure pay the basic national fee.

On 07 February 2002, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, and a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the U.S. basic national fee, and an executed declaration.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal

disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3) and, (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

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OFFICE OF PETITIONS

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVE., N.W.
WASHINGTON DC 20005

In re Application of	:	
Scott	:	
Application No. 10/049,100	:	DECISION ON PETITION
Filed: February 8, 2002	:	TO WITHDRAW
Attorney Docket No. 1823.0150002	:	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 21, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Linda E. Horner on behalf of herself.

All other attorneys/agents associated with this application remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed May 18, 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

MAY 1 6 200

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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WILEY REIN & FIELDING, LLP
1776 k Street, N.W.
Washington, D.C. 20006

In re Application of MOSKOWITZ et al Application No.: 10/049,101 PCT No.: PCT/US00/21189 Int. Filing Date: 04 August 2000 Priority Date: 04 August 1999 Attorney's Docket No.: 80408.0011 For: A SECURE PERSONAL CONTENT SERVER	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is in response to the "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)" filed on 08 February 2002.

BACKGROUND

On 04 August 2000, this international application was filed, claiming an earliest priority date of 04 August 1999.

No Demand electing the United States was filed in this international application Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.494 was 04 April 2001. This international application became abandoned with respect to the United States at midnight on 04 April 2001 for failure pay the basic national fee.

On 08 February 2002, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, and a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the U.S. basic national fee, and an executed declaration.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal

disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3) and, (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.

Rafael Bacares
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