SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/04/20

Paper No.: —

DATE : 2/27/06

TO SPE OF : ART UNIT 2652

SUBJECT : Request for Certificate of Correction on Patent No.: 6876519 B1

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.

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

Comments:

HOA T. NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE

2627
Art Unit

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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United States International Searching Authority
United States International Preliminary Examining Authority
United States Designated Office
United States Elected Office

Address: Commissioner of Patents and Trademarks
Box PCT
Washington, D.C. 20231

#8

May 19, 2003

Fish & Richardson
225 Franklin Street
Boston, MA 02110-2840

Dear Sir or Madam:

We regret to inform you that your request for refund dated 11/18/02 in the amount of $705.00 covering a fee for application serial number 10/049141 cannot be authorized. Please refer to the box checked below.

(X) Small entity status fee not refundable. The time has expired for refund of this fee. A refund based on establishment of small entity status may only be obtained if a verified statement under 37 CFR 1.27 and a request for refund of the excess amount are filed within three months of timely payment of the full fee (37 CFR 1.28).

( ) Application or petition fee not refundable.. Money paid by actual mistake or in excess, such as payment not required by law, will be refunded; but a mere change of purpose after payment of money, as when a party desires to withdraw an application, an appeal or a request for oral hearing does not entitle the party to a refund 37 CFR 1.26). If any application is filed without the specification or drawing and the omission is not corrected within the period set, the application will be returned or otherwise disposed of. The fee, if submitted should include the $_____handling fee (37 CFR 1.53).

() No refund is due. The charge of $_____is correct for multiple dependent claims. A copy of the fee determination sheet is enclosed for your reference.

Any further questions concerning this refund, should be directed to Rita White at (703) 305-3668.

Sincerely,

Rita White
National Stage-Legal Instruments Examiner

14 JUN 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Christopher J. Fildes
Fildes & Outland, P.C.
20916 Mack Avenue, Suite 2
Grosse Point Woods, MI 48236

In re Application of	:	
DETROIT STEEL PRODUCTS CO., INC.	:	
U.S. Application No.: 10/049,157	:	DECISION ON PETITION
PCT No.: PCT/US01/14771	:	
Int. Filing Date: 03 May 2001	:	UNDER 37 CFR 1.137(a)
Priority Date: 04 May 2000	:	
For: VEHICLE SUSPENSION SYSTEMS	:	

This decision is in response to applicant's "Petition For Revival of an Application For Patent Abandoned Unavoidably Under 37 C.F.R. 1.137(a)" filed 01 February 2002 in the United States Patent and Trademark Office (USPTO). Applicant has paid the required petition fee.

BACKGROUND

On 03 May 2001, applicant filed international application PCT/US01/14771. A Demand for international preliminary examination, in which the United States was elected, was not filed prior to the expiration of nineteen months from the priority date. Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 04 January 2002.

On 05 January 2002, the application became abandoned for failure to pay the basic national fee for a U.S. national stage entry application.

On 01 February 2002, applicant filed the present petition accompanied by a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371"; payment of the full U.S. Basic National Fee and a declaration executed by the inventor.

DISCUSSION

Under 37 CFR 1.137(a), a petition requesting that the application be revived on the grounds of unavoidable delay must be filed promptly after applicant becomes aware of the abandonment, and such petition must be accompanied by: (1) A proper response, unless already filed; (2) The petition fee as set forth in §1.17(l); (3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) A terminal disclaimer (if necessary). Applicant has satisfied items (1) and (2) above; item (4) is not applicable.

Concerning item (3), applicant has not met the burden of proof to show that the abandonment was unavoidable.

The circumstances identified by applicants do not satisfy the exacting standard applied when determining whether the cause of abandonment was unavoidable. As explained in the Manual of Patent Examining Procedures at 711.03(c):

> As discussed above, "unavoidable is the epitome of "unintentional" delay. Thus, an intentional delay precludes revival under 37 CFR 1.137(a) ("unavoidable" delay) or 37 CFR 1.137(b) ("unintentional" delay). See *Maldague*, 10 USPQ2d at 1478.
>
> 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.
>
> * * * * *
>
> [A] "reasonably prudent person" would file papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay.

In the present case, problems with delays in the U.S. mail service to the USPTO in the months of October and November 2001 were well known. Advisories were posted on the USPTO website as early as October 24, 2001 detailing postal service delays caused by increased security procedures related to the discovery of anthrax in a Washington, D.C. postal facility. Accordingly, delays in the mail were foreseeable. In addition, a reasonably prudent person would have filed the Demand in compliance with 37 CFR 1.10 to ensure timely receipt.

Because applicant has failed to satisfy all the requirements for a grantable petition under

37 CFR 1.137(a), this application remains abandoned with respect to the United States.

CONCLUSION

The petition to revive under 37 CFR 1.137(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)."

As an alternative, applicant is advised to consider filing a petition to revive under 37 CFR 1.137(b) for unintentional, rather than unavoidable, delay.

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law ($1280.00), (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional." and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention to the PCT Legal Office

Boris Milef
Legal Examiner
PCT Legal Office

Derek A. Putonen
Petitions Attorney
PCT Legal Office
Tel: (703) 305-0130
Fax: (703) 308-6459

22 AUG 2002
UNITED STATES PATENT AND TRADEMARK OFFICE

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

Christopher J. Fildes
Fildes & Outland, P.C.
20916 Mack Avenue, Suite 2
Grosse Point Woods, MI 48236

In re Application of	:	DECISION ON RENEWED
DETROIT STEEL PRODUCTS CO., INC.	:	
U.S. Application No.: 10/049,157	:	PETITION UNDER
PCT No.: PCT/US01/14771	:	
Int. Filing Date: 03 May 2001	:	37 CFR 1.137(a) AND
Priority Date: 04 May 2000	:	
For: VEHICLE SUSPENSION SYSTEMS	:	37 CFR 1.137(b)

This decision is in response to applicant's "Request For Reconsideration of Dismissal Without Prejudice of Petition For Revival of an Application Abandoned Unavoidably or in The Alternative Petition For Revival of an Application Abandoned Unintentionally" filed 10 July 2002 in the United States Patent and Trademark Office (USPTO). Applicant has paid the required petition fee.

BACKGROUND

On 14 June 2002, applicant was mailed a decision dismissing without prejudice applicant's petition under 37 CFR 1.137(a) to revive the present application. Applicant was afforded two months to file any request for reconsideration and advised to consider filing a petition to revive under 37 CFR 1.137(b) for unintentional, rather than unavoidable, delay.

On 10 July 2002, applicant filed the present renewed petition under 37 CFR 1.137(a) and in the alternative, petition under 37 CFR 1.137(b).

DISCUSSION

I. Renewed Petition Under 37 CFR 1.137(a)

As detailed in the decision mailed 14 June 2002, under 37 CFR 1.137(a) a petition requesting that the application be revived on the grounds of unavoidable delay must be filed promptly after applicant becomes aware of the abandonment, and such petition must be accompanied by: (1) A proper response, unless already filed; (2) The petition fee as set forth in §1.17(l); (3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) A terminal disclaimer (if necessary). Applicant previously satisfied items (1) and (2) above; item (4) is not applicable.

Concerning item (3), applicant has not met the burden of proof to show that the abandonment was unavoidable. Applicant argues that, "it was unforeseeable that the alleged anthrax threat in the Washington, D.C. area would affect Patent Office operations." To the contrary, prior to applicant's purported mailing of the Chapter II Demand on 05 November 2001, the anthrax situation was hardly an "alleged" threat but indeed a postal emergency affecting numerous federal facilities in the Washington, D.C. metropolitan area. Problems with delays in the U.S. mail service to the USPTO in the months of October and November 2001 were well known and were posted at the USPS website. See, e.g., notice entitled, "Patent Costumers Advised to Fax Communications to USPTO" posted 02 November 2001.

Moreover, as provided in MPEP 711.03(c), citing to Krahn v. Commissioner, 15 USPQ2d 1823 (E.D. Va 1990) [A] reasonably prudent person "would file papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay." The processes set out in 37 CFR 1.10 are designed to protect applicants from exactly the situation which has arisen in this case and would have been utilized by a "prudent and careful man" in conducting "his most important business." See Krahn, further.

Applicant's contention that the Demand, "did reach the USPTO on time, but instead of being opened, was shipped under the possession of the USPTO or its agents to another location for an anthrax treatment that took two months to complete" is unfounded and not supported by any evidence of record.

For the reasons detailed above, applicant's petition under 37 CFR 1.137(a) is **DISMISSED**.

II. Petition Under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (1), the proper response was the payment of the basic national fee. Applicant has previously provided this payment.

As to Item (2), applicant has provided the $1280.00 petition fee along with the present petition.

With regard to Item (3), applicant's 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 the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

CONCLUSION

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

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

This application will be given an international application filing date of 03 May 2001 and a date of **01 February 2002** under 35 U.S.C. 371.

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Boris Milef
Legal Examiner
PCT Legal Office

Derek A. Putonen
Petitions Attorney
PCT Legal Office
Tel: (703) 305-0130
Fax: (703) 308-6459

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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

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MAY 23 2006
OFFICE OF PETITIONS

In re Application :
Patricelli :
Application No. 10/049,164 : PATENT TERM ADJUSTMENT
Filed: October 21, 2002 :
Dkt. No.: 063391-0202 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed March 23, 2006.

Applicant herein has not disputed the patent term adjustment (PTA) accorded to date (220 days). Instead, the instant application for patent term adjustment requests reconsideration under 37 CFR 1.703(b) of the patent term adjustment as it relates to the Office's failure to issue the patent within three 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 for Office failure to issue the patent within three years. *See*, 37 CFR 1.703(b).

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Applicant is reminded that if an application is entitled to an adjustment under 35 USC 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 USC 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 USC 154(b)(1)(B) in

determining whether periods of delay overlap under 35 USC 154(b)(2)(A).

Thus, any days of delay for Office issuance of the patent more than three years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. *See*, 35 USC 154(b)(1)(B), 35 USC 154(b)(2)(A), and 37 CFR § 1.703(f). *See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

The required patent term adjustment application fee has been charged to applicant's deposit account as authorized. No additional fee will be required if applicant is solely requesting reconsideration of additional time related to failing to issue the patent within three years in accordance with 37 CFR 1.702(b).

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

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

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

05 SEP 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paul S. Madan
MADAN, MOSSMAN & SRIRAM
2603 Augusta, Suite 700
Houston, Texas 77057-5640

In re Application of :
BEDELL, Daniel :
U.S. Application No.:10/049,214 : DECISION
PCT No.: PCT/US00/20334 :
International Filing Date: 26 July 2000 :
Priority Date: 06 August 1999 :
Attorney's Docket No.: 214-12988-US :
For: DEEP BED THICKENER/CLARIFIERS WITH ENHANCED LIQUID REMOVAL :

This decision is in response to the "Petition To Correct Filing Date" filed 06 June 2002. The petition is **GRANTED** as discussed below:

On 14 May 2002, the DO/EO/US mailed in the above-captioned application a "Notification Of Acceptance Of Application Under 35 U.S.C. 371 And 37 CFR 1.494 Or 1.495" identifying 06 February 2002 as the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and the "Date Of Receipt Of All 35 U.S.C. Requirements." Also on 14 May 2002, the USPTO issued applicant a filing receipt identifying 06 February 2002 as the filing date.

On 06 June 2002, applicant filed a "Petition To Correct Filing Date" asserting that the 35 U.S.C. 371 materials herein were filed via "Express Mail" on 05 February 2002, and that the Notification Of Acceptance and filing receipt should be corrected accordingly.

A review of the application file reveals that, as asserted by applicant, 05 February 2002 is the "date in" listed on the "Express Mail" envelope in which the present national stage materials were submitted. The Notification Of Acceptance and filing receipt mailed on 14 May 2002, both of which contain the incorrect 06 February 2002 date, are therefore appropriately vacated.

The "Notification Of Acceptance Of Application Under 35 U.S.C. 371 And 37 CFR 1.494 Or 1.495" and filing receipt mailed 14 May 2002 are hereby **VACATED**.

The application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accord with this decision, including: (1) mailing a corrected Notification Of Acceptance identifying **05 February 2002** as the "Date Of Receipt Of

35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and the "Date Of Receipt Of All 35 U.S.C. Requirements;" and (2) issuing a corrected filing receipt identifying **05 February 2002** as the filing date.

Richard Cole
PCT Legal Examiner
PCT Legal Office

RMR/RC:rmr

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

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8110 GATEHOUSE ROAD
SUITE 100 EAST
PO BOX 747
FALLS CHURCH VA 22040-0747

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AUG 0 5 2005

OFFICE OF PETITIONS

In re Patent No. 6,841,136	:	
Issued: January 11, 2005	:	
Application No. 10/049,234	:	ON PETITION
Filed: February 11, 2002	:	
Attorney Docket No. 2671-0115P	:	

This is a decision on the petition under 37 CFR 1.182, filed June 30, 2005, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Petitioner supplied $130.00 for payment of the petition fee. However, the fee for a petition under 37 CFR 1.182 is $400.00. Accordingly, an additional $270.00 will be charged to petitioner's deposit account as authorized.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this matter may be directed to Paralegal Liana Chase at (571) 272-3206. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 305-8237.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

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

cc: Krystal Paige, P/OPPD, Crystal Park 3-910 (FAX 305-4372)

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P.O. Box 1450
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WARE FRESSOLA VAN DER SLUYS &
ADOLPHSON, LLP
BRADFORD GREEN BUILDING 5
755 MAIN STREET, P.O. BOX 224
MONROE, CT 06468

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FEB 21 2006

OFFICE OF PETITIONS

In re Application of :
Oscar Salonaho :
Application No. 10/049,249 : ON PETITION
Filed: February 8, 2002 :
Attorney Docket No. 915-003.3 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 2, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed May 26, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 27, 2005.

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

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Paper No.

MURABITO, HAO & BARNES, LLP
TWO NORTH MARKET STREET, THIRD FLOOR
SAN JOSE CA 95113

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JAN 22 2008

OFFICE OF PETITIONS

In re Application of	:	
Gabriel Daemon Engel et al.	:	
Application No. 10/049,271	:	
Filed: February 6, 2002	:	DECISION ON PETITION
Attorney Docket No. PURE-P012US	:	UNDER 37 C.F.R. § 1.181(A)
Title: DATA DISPLAY FOR	:	
MULTIPLE LAYERED SCREENS	:	

This is a decision on the petition under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on March 16, 2007.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed August 23, 2006, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no responses were received. Accordingly, the above-identified application became abandoned on November 24, 2006. A notice of abandonment was mailed on March 2, 2007.

With the present petition, Petitioner has alleged that a Request for Continued Examination (RCE), the associated fee, an amendment, and a three-month extension of time were filed on February 23, 2007.

Both the electronic file and the electronic records have been reviewed, and it is clear that a RCE, the associated fee, an amendment, and a three-month extension of time were received on February 23, 2007.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has

met his burden of establishing that a response was timely submitted.

Accordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

Petitioner has further submitted $130 along with this petition, however a petition under this section of the C.F.R. does not carry a fee. As such, the petition fee will be refunded to Petitioner's Deposit Account in due course.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. §1.114 - the amendment filed on February 23, 2007 - can be processed.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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Fish & Richardson, PC
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Minneapolis, MN 55440-1022

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SEP 28 2006

OFFICE OF PETITIONS

In re Application of :
Salvatore D'Esposito :
Application No. 11/049,322 :
Filed: February 1, 2005 :
Attorney Docket No. 18682-002001 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 13, 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 John C. Phillips on behalf of all attorneys of record who are associated with Customer No. 20985

All attorneys/agents associated with the Customer No. 20985 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 Salvatore D'Esposito at the address indicated below.

There is no outstanding Office action at this time.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Salvatore D'Esposito**
3235 Garfield Street
Carlsbad, CA 92008

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APR 12 2010

OFFICE OF PETITIONS

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

In re Application of :
Karl Bruce Thor :
Application No. 10/049427 : DECISION ON APPLICATION
Filing or 371(c) Date: 05/06/2002 : FOR PATENT TERM ADJUSTMENT
Attorney Docket Number: :
4220-78-PUS :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705(b), filed July 16, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is 1137 days, not 453 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction based upon an assertion that the Office erred in assessing a reduction associated with the filing of an Information Disclosure Statement ("IDS"), and (2) on the basis that the Office will take in excess of three years to issue this patent.

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

BACKGROUND

The application was filed on May 6, 2002. On April 16, 2009, 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 453 days.

On July 16, 2009, applicant timely submitted the present request for reconsideration of patent term adjustment[1]. Applicants do not dispute the adjustments to date of 964 days (40 days, 159

[1] Office records show that the Issue Fee payment was received in the Office on July 16, 2009.

days or 765 days) or reductions of 240 days (91 days, 28 days, 90 days or 31 days). Applicants, however, assert that the Office erred in assessing a reduction in accordance with 37 CFR 1.704(c)(8) in connection with the Information Disclosure Statement(s) ("IDS"), filed February 28, 2005. Applicants assert that the IDS's were filed in direct response to a telephonic request from the Examiner.

OPINION

Applicants' arguments have been carefully considered. A review of the record reveals that applicant re-filed copies of IDS's previously filed on June 25, 2002, and April 29, 2003 respectively, noting in the filing that the IDS's were filed at the request of the Examiner. The copies included Certificates of Mailing and return-receipt postcards confirming the prior filing of the IDS's. As such, the IDS's filed February 28, 2005, filed as a supplemental paper within the meaning of 37 CFR 1.704(c)(8), were expressly requested by the Examiner. A review of the application history further confirms that the IDS's were not otherwise filed under circumstances that constitute a failure to engage in reasonable efforts to conclude prosecution. The period of reduction of 271 days entered for the filing of the IDS's is not warranted and is being removed.

With regard to the argument under 37 CFR 1.702(b), 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 § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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 adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

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[2] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is seven hundred twenty-four (724) days (adjustments totaling 964 days less reductions totaling 240 days).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Revised PALM Screen

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which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

PTA Calculations for Application: 10/049427			
Application Filing Date:	05/06/2002	PTO Delay (PTO):	964
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	511
Post-Issue Petitions:	0	Total PTA (days):	724
PTO Delay Adjustment:	271		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
115	04/12/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	271		
104	04/16/2009	MAIL NOTICE OF ALLOWANCE			
103	04/13/2009	ISSUE REVISION COMPLETED			
100	04/11/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
99	04/11/2009	DOCUMENT VERIFICATION			
98	04/11/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
97	04/09/2009	NOTICE OF ALLOWABILITY			
96	02/05/2009	MAIL BPAI DECISION ON APPEAL - REVERSED	765		68
95	02/04/2009	BPAI DECISION - EXAMINER REVERSED			
94	02/03/2009	MAIL BOA MISCELLANEOUS COMMUNICATION TO APPLICANT			
93	02/03/2009	BOA MISCELLANEOUS COMMUNICATION TO APPLICANT			
92	12/15/2008	CONFIRMATION OF HEARING BY APPELLANT			
91	12/02/2008	NOTIFICATION OF APPEAL HEARING			
89	04/23/2008	DOCKETING NOTICE MAILED TO APPELLANT			
88	04/22/2008	ASSIGNMENT OF APPEAL NUMBER			
87	04/02/2008	APPEAL AWAITING BPAI DOCKETING			
86	11/28/2007	MAIL REPLY BRIEF NOTED BY EXAMINER			
85	11/26/2007	REPLY BRIEF NOTED BY EXAMINER			
84	10/18/2007	DATE FORWARDED TO EXAMINER			
83	10/05/2007	REPLY BRIEF FILED			
82	10/05/2007	REQUEST FOR ORAL HEARING			
81	09/27/2007	APPEAL READY FOR BPAI DOCKETING			
80	09/20/2007	MAIL MISCELLANEOUS COMMUNICATION TO			

		APPLICANT			
79	09/13/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
78	09/05/2007	RETURN OF UNDOCKETED APPEAL TO THE TC			
77	09/05/2007	EXAM. ANS. REVIEW COMPLETE			
76	08/10/2007	MAIL EXAMINER'S ANSWER			
75	08/06/2007	EXAMINER'S ANSWER TO APPEAL BRIEF			
74	06/27/2007	DATE FORWARDED TO EXAMINER			
73	05/25/2007	APPEAL BRIEF FILED			
72	04/27/2007	NOTICE -- DEFECTIVE APPEAL BRIEF			
71	04/25/2007	APPEAL BRIEF REVIEW COMPLETE			
70	04/25/2007	DATE FORWARDED TO EXAMINER			
69.1	03/01/2007	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
69	03/01/2007	APPEAL BRIEF FILED			
68	01/03/2007	NOTICE OF APPEAL FILED			
67	10/03/2006	MAIL NON-FINAL REJECTION			
66	09/29/2006	NON-FINAL REJECTION			
65	08/28/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
64.7	08/28/2006	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		31	57
64	08/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
63	07/28/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
62	07/28/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
61	07/28/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
60	07/28/2006	DATE FORWARDED TO EXAMINER			
59	07/28/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
58	07/28/2006	DATE FORWARDED TO EXAMINER			
57	07/28/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
56	07/28/2006	DISPOSAL FOR A RCE / CPA / R129			
55	07/28/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
54.7	07/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

54	07/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
53	07/21/2006	MISCELLANEOUS INCOMING LETTER			
52	06/21/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
51	06/08/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
50	04/04/2006	NOTICE OF APPEAL FILED		90	45
47	04/04/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
46	03/29/2006	CASE DOCKETED TO EXAMINER IN GAU			
45	10/04/2005	MAIL FINAL REJECTION (PTOL - 326)			
44	09/19/2005	FINAL REJECTION			
43	07/08/2005	MISCELLANEOUS INCOMING LETTER			
42.7	07/08/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	40
42	07/08/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	07/20/2005	DATE FORWARDED TO EXAMINER			
40	07/08/2005	RESPONSE AFTER NON-FINAL ACTION		28	32
39	07/08/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	05/20/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
37	05/19/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
36	05/20/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
35	05/19/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
34	02/28/2005	REFERENCE CAPTURE ON IDS			
33.7	02/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		271	23
33	02/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	03/10/2005	MAIL NON-FINAL REJECTION	159		23
31	03/07/2005	NON-FINAL REJECTION			
30	01/27/2005	CASE DOCKETED TO EXAMINER IN GAU			
29	07/21/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
28	07/21/2004	CORRESPONDENCE ADDRESS CHANGE			

27	07/21/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
26.7	06/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	06/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	06/02/2004	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
24	07/21/2004	DATE FORWARDED TO EXAMINER			
23	06/02/2004	RESPONSE AFTER NON-FINAL ACTION		91	19
22	06/02/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
20	06/02/2004	WORKFLOW INCOMING AMENDMENT IFW			
19	12/03/2003	MAIL NON-FINAL REJECTION			
18	12/01/2003	NON-FINAL REJECTION			
17	09/17/2003	DATE FORWARDED TO EXAMINER			
16	09/15/2003	RESPONSE TO ELECTION / RESTRICTION FILED			
15	08/15/2003	MAIL RESTRICTION REQUIREMENT	40		-1
14	08/15/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
13.7	06/02/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	06/02/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12.7	04/29/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	04/29/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11.7	06/25/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	06/25/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	12/20/2002	CASE DOCKETED TO EXAMINER IN GAU			
9	06/13/2002	APPLICATION DISPATCHED FROM OIPE			
8	06/11/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
7	05/31/2002	NOTICE OF DO/EO ACCEPTANCE MAILED			
6	05/06/2002	ADDITIONAL APPLICATION FILING FEES			
5	05/06/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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FOLEY AND LARDNER
SUITE 500
3000 K STREET, NW
WASHINGTON, DC 20007

In re Application of
Schlessinger, et al.
Application Serial No.: 10/049,429
PCT No.: PCT/US00/23744
Intl. Filing Date: August 30, 2000
Priority Date: 30 August 1999
Attorney's Docket No.: 038602-1306
For: CRYSTAL STRUCTURES OF DOMAINS OF RECEPTOR PROTEIN TYROSINE KINASES AN THEIR LIGANDS

DECISION ON REQUEST
UNDER 37 CFR 1.497(d)

This is a decision in response to the "Petition under 37 CFR 1.48(a) to Correct Inventorship" filed 14 February 2003, which is being treated as a request under 37 CFR 1.497(b) to correct inventorship.

BACKGROUND

On 30 August 2000, applicant filed international application PCT/US00/23744 that claimed priority of an earlier provisional application filed in the United States on 30 August 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 30 March 2001 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 expired at midnight on 30 March 2002.

On 12 February, 2002, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by a copy of the international search report and the basic national fee of $890.00 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/049,429.

On 16 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)" indicating that applicant was required to file an oath or declaration and a surcharge fee. The notification set an extendable period for reply of two months from its mailing date in which to respond. A response was filed on 16 October 2002, along with an extension of time within the fourth month pursuant to 37 CFR 1.136(a). The response of 16 October 2002 was deficient and the United States Patent and Trademark Office mailed the " Notification of Defective Response" on 16 January 2003 and indicated that the oath or declaration was not proper as it was executed by inventors not listed in the international application. The "Notification of Defective Response" allowed a one month period for response. Extension of time were available pursuant to 37 CFR 1.136(a).

In order to satisfy the requirements of 35 U.S.C. 371(c)(4), on 12 May 2003, applicants filed the following papers:

1) declarations signed by inventors Alexander Plotnikov, Zhongtao Zang, and Xiang-Peng Kong;

2) "Statement Supporting Correction of Inventorship Under 37 CFR 1.48(a)" authored by the above-cited inventors, and

3) "Consent of Assignee for Correction of Inventorship."

DISCUSSION

A request under 37 CFR 1.497(d) to correct inventorship must be accompanied by (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part, (2) the processing fee set forth in 37 CFR 1.17(I), and (3) the written consent of the assignee, if an assignment has been executed by any of the original named inventors.

With respect to item (1), applicant has not provided the required statement from inventors Plotnikov, Zhang, or Kong. The statements provided do not stipulate that the error in inventorship in the international application occurred without deceptive intent , rather only stipulate that the error " . . . that caused the inventive entity to be set forth in error in the executed Declaration submitted pursuant to 37 CFR 1.63 in the . . . [national stage] application arose without deceptive intent . . ."

Relative to item (3), the "Consent of Assignee for Correction of Inventorship" is lacking in that it does not properly establish, pursuant to 37 CFR 3.73(b), the assignee's right to act in the application as is required by 37 CFR 1.497(d)(3). Applicant must provide documentary evidence that complies with the requirements of 37 CFR 3.73 establishing the assignee's right to act in the above-cited application. Further, the "Consent of Assignee for Correction of Inventorship" does not establish that the person who signed the consent is authorized to act on behalf of the assignee. Section 3.73(b)(2) of Title 37 of the Code of Federal Regulations requires the person signing the document establishing ownership on the part of the assignee include a statement that the person is authorized to act on behalf of the assignee or that the person has "apparent" authority to act on behalf of the assignee. The authority of the person who signed the "Consent of Assignee for Correction of Inventorship" is not "apparent", therefore; applicant must provide a statement that said person is authorized to act on behalf of the assignee.

It is further noted that the declaration filed with the instant petition is defective in that it is a compilation of several declarations rather than one complete declaration signed by all named inventors, or complete declarations for each named inventor with all signature pages attached. The defect in the declaration is evidenced by the presence of two pages labeled "3 of 4" and several other pages labeled "4 of 4". Applicant must file a proper declaration with any renewed petition filed.

CONCLUSION

The request under 37 CFR 1.497(d) is **DISMISSED without prejudice.**

If reconsideration on the merits of this request is desired, a proper response must be filed within

TWO (2) MONTHS from the mail date of this decision. A proper response would include the submission of the requirements under 37 CFR 1.497(d) indicated as unfulfilled above. Any reconsideration should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)." No additional fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file the proper response will result in **ABANDONMENT** of the application.

Please direct further correspondence with respect to this matter to:

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

Boris Milef
PCT Legal Examiner
PCT Legal Office

Kenya A. McLaughlin
PCT Legal Office Detailee
PCT Legal Office

Telephone: (703) 305-0010 Facsimile: (703) 308-6459

23 SEP 2003
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WASHINGTON, DC 20007

In re Application of
Schlessinger, et al.
Application Serial No.: 10/049,429
PCT No.: PCT/US00/23744
Intl. Filing Date: August 30, 2000
Priority Date: 30 August 1999
Attorney's Docket No.: 038602-1306
For: CRYSTAL STRUCTURES OF DOMAINS OF RECEPTOR PROTEIN TYROSINE KINASES AN THEIR LIGANDS

DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This is a decision in response to the "Renewed Petition under 37 CFR 1.497(d)" filed 08 September 2003, which is being treated as a renewed request under 37 CFR 1.497(b) to correct inventorship.

BACKGROUND

On 30 August 2000, applicant filed international application PCT/US00/23744 that claimed priority of an earlier provisional application filed in the United States on 30 August 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 30 March 2001 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 expired at midnight on 30 March 2002.

On 12 February, 2002, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by a copy of the international search report and the basic national fee of $890.00 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/049,429.

On 16 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)" indicating that applicant was required to file an oath or declaration and a surcharge fee. The notification set an extendable period for reply of two months from its mailing date in which to respond. A response was filed on 16 October 2002, along with an extension of time within the fourth month pursuant to 37 CFR 1.136(a). The response of 16 October 2002 was deficient and the United States Patent and Trademark Office mailed the " Notification of Defective Response" on 16 January 2003 and indicated that the oath or declaration was not proper as it was executed by inventors not listed in the international application. The "Notification of Defective Response" allowed a one month period for response. Extension of time were available pursuant to 37 CFR 1.136(a).

In order to satisfy the requirements of 35 U.S.C. 371(c)(4), on 12 May 2003, applicants a petition and other evidentiary documents. The petition was dismissed by a decision mailed 08 July 2003. The

decision allowed a two-month period for reply, beginning from the decision mailing date. A response was filed on 08 September 2003.

DISCUSSION

A request under 37 CFR 1.497(d) to correct inventorship must be accompanied by (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part, (2) the processing fee set forth in 37 CFR 1.17(I), and (3) the written consent of the assignee, if an assignment has been executed by any of the original named inventors.

With respect to item (1), applicant has satisfied the requirement by providing statements from inventors Plotnikov, Zhang, or Kong that state that the error in inventorship in the international application occurred without deceptive intent.

With respect to item (2), the processing fee was paid on 07 May 2003.

Relative to item (3), applicant has provided satisfactory evidence of the assignee's consent to have inventors Plotnikov, Zhang, and Kong added.

CONCLUSION

The renewed request under 37 CFR 1.497(d) is **GRANTED.**

This application is being forwarded to the National Stage Processing Branch of the International Division to continue national stage processing of the present application.

Boris Milef
PCT Legal Examiner
PCT Legal Office

Kenya A. McLaughlin
PCT Legal Office Detailee
PCT Legal Office

Telephone: (703) 305-0010 Facsimile: (703) 308-6459

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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :
Georg Berceli :
Application No. 10/049,431 : DECISION ON PETITION
Filed: February 12, 2002 :
Attorney Docket No. 100564-00094 :

This is a decision on the petition filed on February 7, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned on August 11, 2005, for failure to submit timely corrected drawings as required by the Notice of Allowability mailed on May 10, 2005. A Notice of Abandonment was mailed on January 20, 2006.

The Draftsperson approved the drawings filed on February 7, 2006.

This matter is being referred 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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

LERNER DAVID LITTENBERG KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

In re Application of :
Tomoyuki Asano et al :
Application No. 10/049,434 : ON PETITION
Filed: May 10, 2002 :
Attorney Docket No. SONY JP-181 :

This is a decision on the petition, filed October 6, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 11, 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 2123 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. _____

Date : October 6, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Tomoyuki Asano et al
Application No. :10/049,434
Filed :May 10, 2002

The above-identified application has been assigned Patent No. 7,123,723 and an issue date of October 17, 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 October 17, 2006:

"All reference to Patent No. 7,123,723 to Tomoyuki Asano et al of Japan for INFORMATION RECORDING AND/OR REPRODUCING METHOD AND INFORMATION RECORDING AND/OR REPRODUCING DEVICE appearing in the Official Gazette of October 17, 2006 should be deleted since no patent was granted."

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

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

0 9 MAY 2003

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Paul L. Sharer
PILLSBURY WINTHROP LLP
1600 Tysons Boulevard
McLean, Virginia 22102

In re Application of	:	
John D. PAYNE, et al.	:	
Application No.: 10/049,436	:	DECISION ON
PCT No.: PCT/GB00/02878	:	PETITION
Int. Filing Date: 26 July 2000	:	UNDER 37 CFR 1.181
Priority Date: 13 August 1999	:	
Attorney Docket No.: SMC60371/UST (0290692)	:	
For: AIR FILTER	:	

This decision is in response to the "PETITION TO REINSTATE APPLICATION" filed 02 May 2003, which is being treated as a petition under 37 C.F.R. 1.181 requesting acceptance of a copy of the "SUBMISSION OF SUBSTITUTE DECLARATION" filed with the petition as being submitted on 22 July 2002 in the above-captioned application. The petition is **GRANTED** as follows:

No petition fee is required.

The evidence submitted by applicants, which includes a copy of the postcard receipt with a USPTO mailroom stamped date of 22 July 2002 itemizing all the papers submitted on filing in the above-captioned application, is sufficient to establish that a substitute declaration of the inventors was received in the Office on 22 July 2002. The postcard receipt clearly shows that a Substitute Declaration and Power of Attorney for applicants Payne et al bearing docket No. 0290692 was addressed to the "USPTO". Accordingly, acceptance of a copy of the substitute declaration of the inventors as being filed on 22 July 2002 is appropriate.

A review of the declaration filed with the petition reveals that it is in compliance with 37 CFR 1.497 and addresses all the objections mentioned in the Office decision of 21 May 2002. Applicants' claim for priority is acknowledged. The application has an international filing date of **26 July 2000** under 35 U.S.C. 363 and a date of **22 July 2002** under 35 U.S.C. 371.

The application is being returned to the United States Designated/Elected Office for further processing including the entry of the substitute declaration of the inventors submitted

with the petition as being filed on 22 July 2002, and the issuance of a Notification of Acceptance of Application under 35 U.S.C. 371(c) and 37 CFR 1.495 (Form PCT/DO/EO/903) and for preparation and mailing of a filing receipt.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

NNH/LES:hn

Tel: (703) 308-6508

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 2-14-06

rvk
Paper Number: ____

In re application of
Helen Dukes et al
Serial No. 10/049,436
Filed: July 22, 2002
For: AIR FILTER :

: DECISION ON
: PETITION

This is a response to the PETITION REQUESTING WITHDRAWAL OF ABANDONMENT PURSUANT TO 37 C.F.R. 1.181(a), filed August 11, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of June 27, 2005, for failure to timely file a proper response to the Office letter dated August 30, 2004 be withdrawn. The petitioner asserts that the Office letter of August 30, 2004 was 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 Office letter of August 30, 2004 was not received by petitioner. The evidence provided includes a statement by the petitioner that the Office letter of August 30, 2004 was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office letter of August 30, 2004 was not received. Also provided is a copy of the attorney's application docket records of SN 10/049,436 where the Office letter of August 30, 2004 would have been posted had it been timely received (APPENDIX A).

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the Technical Support Staff

for entering of the Response dated August 11, 2005 and then forwarded to the examiner for prompt consideration.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

PILLSBURY WINTHROP SHAW PITTMAN, LLP
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McLEAN, VA 22102

27 APR 2004

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Mark R. Gordon-Lendvay
P.O. Box 101
White Plains, New York 10605

In re Application of	:	
BRUN, Andreas	:	
Application No.: 10/049,454	:	
PCT Application No.: PCT/IB00/01295	:	DECISION ON
International Filing Date: 02 August 2000	:	
Priority Date: 12 August 1999	:	PETITION
Attorney Docket No.: MPF 001	:	
For: SLEEPING BAG	:	UNDER 37 CFR 1.137(b)

Applicant's "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 09 April 2004, is DISMISSED without prejudice.

BACKGROUND

On 02 August 2000, applicant filed international application number PCT/IB00/01295, claiming priority of an earlier German application, filed on 12 August 1999. The United States of America was designated in the Request. A copy of the international application was transmitted by the International Bureau to the United States Patent and Trademark Office on 22 February 2001. Applicant timely filed a Demand on 02 March 2001, electing the United States of America. Accordingly, the thirty-month period for paying the basic national fee in the United States of America expired at midnight on 12 February 2002.

On 12 February 2002, applicant filed a transmittal letter for national stage entry. Among applicant's transmittal papers were an executed inventor declaration, a translation of the international application, and credit card authorization to pay the basic national stage filing fee of $445.

On 16 April 2002, applicant was mailed a Notification of Abandonment FORM PCT/DO/EO/909 on the grounds that applicant had failed to pay the requisite national stage fees since applicant's credit card payment had been declined and since applicant had not provided an alternative deposit account for making payment.

On 09 April 2004, applicant filed the instant petition for revival of the application on the grounds of unintentional abandonment, including, *inter alia*, $440 for basic national stage fees.

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).

With regard to item (1) above, applicant has stated that "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Since, as demonstrated below, this petition is not grantable, the requirement of item (1) above is not satisfied.

With regard to item (2) above, applicant has provided $440 for the required basic national fees. However, the required basic national fee is $460, and so the requirement of item (2) above is not satisfied.

With regard to item (3) above, applicant has provided the required petition fee, meeting the requirement of item (3) above.

With regard to item (4), a terminal disclaimer is not required as the application was filed after 08 June 1995.

Accordingly, because the requirements of items (1) and (2) above have not been satisfied, all of the requirements under 37 CFR 1.137(b) have not been satisfied, and so the petition is dismissed.

CONCLUSION

Because applicant has failed to satisfy items (1) and (2) above, the petition to revive the abandoned application under 37 CFR 1.137(b) is DISMISSED without prejudice as to National Stage in the United States of America.

If reconsideration on the merits 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 "Renewed Petition Under 37 CFR 1.137(b)." Extensions of time are available under 37 CFR 1.136(a).

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, USA and address the contents of the letter to the attention of the Office of PCT Legal Administration.

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28 AUG 2006

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28 AUG 2006

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Andrew F. Young
LACKENBACH SIEGEL LLP
One Chase Road
Scarsdale, New York 10583

In re Application of:	:	
BRUN, Andreas	:	
U.S. Application No.: 10/049,454	:	DECISION ON RENEWED
PCT No.: PCT/IB00/01295	:	PETITION FOR REVIVAL
International Filing Date: 02 August 2000	:	UNDER 37 CFR 1.137(b)
Priority Date: 12 August 1999	:	
Attorney's Docket No.: MERTE.Y3-20	:	
For: SLEEPING BAG	:	

This decision is issued in response to applicant's Petition for Revival under 37 CFR 1.137(b), filed by facsimile on 10 July 2006, treated herein as a renewal of the original petition for revival under 37 CFR 1.137(b) filed herein on 09 April 2004.[1]

BACKGROUND

The procedural background of the present application was set forth in the decision mailed herein on 27 April 2004. That decision dismissed the petition for revival under 37 CFR 1.137(b) filed by prior counsel for failure to satisfy all the requirements for a grantable petition. Specifically, applicant had not provided the "required reply," that is, payment of the full U.S. basic national fee.[2]

The 27 April 2004 decision provided a two-month response period, extendable under 37 CFR 1.136(a). No response was filed by applicants during this time period.

On 15 March 2005, applicant filed a "Change Of Correspondence Address & Power Of Attorney And Status Inquiry" that appointed above-named counsel.

On 20 August 2005, applicant filed a second Status Inquiry.

On 13 September 2005, applicant filed a third Status Inquiry.

On 14 September 2005, the USPTO mailed a "Notice Of Acceptance Of Power Of Attorney" confirming the appointment of above-named counsel.

---

[1] It is noted that applicant asserts that the present submission was originally submitted on 20 April 2006.

[2] Applicants included $440 with the petition; however, the applicable basic national fee at the time the petition was filed was $460.

On 06 April 2006, the USPTO mailed a response to applicant's Status Inquiry, confirming that the application was abandoned and that no response had been filed to the decision dismissing applicant's petition for revival under 37 CFR 1.137(b) mailed herein on 27 April 2004. A copy of the 27 April 2004 decision was included with this correspondence.

On 10 July 2006, applicant filed the materials treated herein as a renewed petition for revival under 37 CFR 1.137(b). This submission included payment of the petition fee required under 37 CFR 1.137(b). This fee is not required, however, because the petition fee had already been submitted with respect to the original petition for revival filed by applicants on 09 April 2004. Accordingly, this petition fee has been refunded to Deposit Account No. 10-0100.

DISCUSSION

As set forth in the decision mailed 27 April 2004, the original petition for revival was dismissed because applicant had failed to provide the "required reply" of payment of the complete basic national fee. The applicable small entity basic national fee for this application has subsequently been reduced to $150. Accordingly, applicant's previous payment of $440 is now sufficient to satisfy the "required reply" element of a grantable petition.

However, because applicant failed to file the present renewed petition under 37 CFR 1.137(b) within the provided response period, applicant must provide an adequate showing that the entire delay in filing the present renewed petition from the time such renewed petition was due until the filing of the present submission was unintentional.

Here, applicant has provided a "Statement" from above-named counsel providing details as to the actions he has taken since becoming responsible for this application in February 2005; counsel includes a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." These statements are sufficient to conclude that the delay in filing the renewed petition from the time above-named counsel became responsible for the application in February 2005 until the filing of the present application was unintentional.

However, it is not apparent from the present record that the delay during the period between the mailing of the previous decision on 27 April 2004 and above-named counsel's acceptance of responsibility herein in February 2005 was also unintentional. A statement has not been provided from the applicant or from the attorney responsible for the case during this time period, the person(s) who presumably would have firsthand knowledge regarding the cause of delay during this time period.

Before it can be concluded that the entire delay herein was unintentional, applicant must provide additional materials confirming that the delay in filing the required reply between the mailing of the previous decision on 27 April 2004 and above-named counsel's acceptance of responsibility in February 2005 was unintentional. Such materials should include a statement from applicant and, if possible, from prior counsel explaining the delay during this period.

Based on the above, applicant has not satisfied all the requirements for a grantable petition for revival under 37 CFR 1.137(b).

CONCLUSION

Applicant's renewed petition or revival under 37 CFR 1.137(b) 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 be entitled "Second Renewed Petition Under 37 CFR 1.137(b)" and include the materials required to confirm that the delay in filing the required reply between April 2004 and February 2005 was unintentional, as discussed above.

Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, 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
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#16

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28 SEP 2006

Andrew F. Young
LACKENBACH SIEGEL LLP
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In re Application of: BRUN, Andreas	:	
U.S. Application No.: 10/049,454	:	DECISION ON SECOND
PCT No: PCT/IB00/01295	:	RENEWED PETITION UNDER
Int'l Filing Date: 02 August 2000	:	37 CFR 1.137(b)
Priority Date: 12 August 1999	:	
Attorney's Docket No.: MERTE.Y3-20	:	
For: SLEEPING BAG	:	

In a decision mailed herein on 28 August 2006, applicant's renewed petition for revival under 37 CFR 1.137(b) was dismissed without prejudice for failure to satisfy all the requirements for a grantable petition. Specifically, applicant had not provided an adequate showing that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition was unintentional.

On 20 September 2006, applicant filed the second renewed petition considered herein. The submission includes a new statement from current counsel, confirming the unsuccessful attempts to contact prior counsel regarding the delay, and it also includes a statement from applicant's German agent confirming that applicant never intended to abandon the present application. These statements, in combination with the previously filed materials, satisfy the requirement of 37 CFR 1.137(b)(3), the final outstanding requirement for a grantable petition.

Applicant's second renewed petition for revival under 37 CFR 1.137(b) is **GRANTED**.

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 08 December 2004.[1]

Richard M. Ross
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[1] This is the date that the required U.S. small entity national fee was reduced to $150, an amount which applicant's earlier $440 payment satisfies (the payment was inadequate when submitted, because the applicable fee was $460 at such time).

MAY 07 2002

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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
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ARLINGTON, VA 22201

In re Application of
CROIZY et al.
Serial No.: 10/049,463
PCT No.: PCT/FR00/02136
Int. Filing Date: 25 July 2000
Priority Date: 29 July 1999
Attorney's Docket No.: ATOCM 252
For: METHOD FOR MAKING METHYL ETHYL KETONE CYANOHYDRIN

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

The petition to revive under 37 CFR 1.137(b) filed 13 February 2002 in the above-captioned application is hereby **GRANTED** as follows:

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" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $980 and the required petition fee of $1280 have been paid and thus, 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 National Stage Processing Division of the Office of PCT Operations for continued processing including issuance of a Notification of Missing Requirements indicating that the oath/declaration executed by the inventors and English translation of the international application along with the surcharge and processing fees for filing these documents after the thirty month period is required.

Cynthia M. Kratz
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17 JUN 200

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Schiff Hardin & Waite
Patent Department
6600 Sears Tower
Chicago, Illinois 60606

In re Application of:	:	
WEIDLICH	:	DECISION ON
Application No.: 10/049,466	:	PETITION
PCT No.: PCT/DE00/03581	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 12 October 2000	:	
Priority Date: 19 October 1999	:	
For: METHOD FOR ENGRAVING PRINTING CYLINDERS	:	

This is in response to the petition to revive the above-identified abandoned application for "unintentional" delay under 37 CFR 1.137(b).

BACKGROUND

On 12 October 2000, applicant filed International Application PCT/DE00/03581, which claimed priority to an earlier application 199 50 278.1 filed 19 October 1999 in Germany. The International Application designated the United States of America. No Demand for international preliminary examination was filed. Accordingly, the twenty month period for paying the basic national fee in the United States expired at midnight on 19 June 2001. It is noted that applicant's petition erroneously stated that the twenty month period expired "April 19, 2001."

On 12 February 2002, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the requisite $890.00 basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the International Application, a translation of the International Application into English, an executed Declaration of the inventor, and the above mentioned petition.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply;
(2) the petition fee required 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 under 37 CFR 1.137(b) was unintentional; and
(4) a terminal disclaimer with disclaimer fee (only for utility and plant applications filed before 08 June 1995).

Regarding item (1), applicant furnished the U.S. Basic National Fee along with the requisite papers for filing the National stage application.

Regarding item (2), applicant did not submit the $1,280.00 petition fee as required by 37 CFR 1.17(m). However, applicant's TRANSMITTAL LETTER gives authorization to charge any additional fees which may be required to Deposit Account No. **501519**. Accordingly, Applicant's Deposit Account No. **501519** has been charged $1,280.00 for the petition fee.

Regarding item (3), the statement in the petition that "Applicant's failure to enter the national stage before April 19, 2001 was unintentional and the abandonment of the U.S. national stage application was unintentional" (see applicant's PETITION at page 2, lines 1-4) 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" under 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.

Regarding item (4), because applicant's filing date of 12 October 2000 is after 08 June 1995, the requirement of a terminal disclaimer with disclaimer fee is not applicable in this case.

Accordingly, applicant has satisfied each of the requirements of 37 CFR 1.137(b).

CONCLUSION

For the above reason, the request to revive the application is **GRANTED**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for preparation and mailing of the Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) indicating a date of **12 February 2002** under 35 U.S.C. 371.

Gregory Vidovich
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Leonard Smith
PCT Legal Examiner
PCT Legal Office

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Mailed: APR 8 2004

spg
Paper Number 8

In re application of :
Xie Yuefeng :
Serial No. 10/049,471 :
Filed: February 12, 2002 :
For: METHOD OF USING WASTE TIRES AS A FILTER MEDIA :

DECISION ON
PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181, filed December 29, 2003. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed November 12, 2003, be withdrawn since the applicant did not receive the Office letter mailed April 3, 2003.

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 applicant or any authorized representative of the applicant did not receive the Office letter, mailed April 3, 2003. The evidence provided includes a statement by the petitioner that the Office letter, mailed April 3, 2003 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 was not received. Also provided is a copy of the attorney's application docket records where the Office letter 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 Office letter originally mailed April 3, 2003 and restarting of the period of response from the remail date thereof.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
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John J Elnitski Jr
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MAY 0 1 2002

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Intellectual Property Division
Winton Hill Technical Center - Box 161
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Cincinnati, OH 45224

In re Application of	:	
O'TOOLE, et al.	:	DECISION ON
Application No.: 10/049,497	:	
PCT No.: PCT/US00/04709	:	PETITION UNDER
Int. Filing Date: 24 February 2000	:	
Priority Date: 28 February 1999	:	37 CFR 1.137(b)
Attorney Docket No.: CM2140	:	
For: HAIR CARE COMPOSITIONS	:	

The petition to revive under 37 CFR 1.137(b) filed 13 February 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "the entire delay in filing the required reply from the due date for the reply, until the filing of this petition under 37 CFR 1.137(b) is unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has provided payment of the full U.S. Basic National Fee 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. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

As authorized, $200.00 will be deducted from Deposit Account No.: 16-2480 ($130.00 as payment of the surcharge for providing and oath or declaration later than thirty months from the earliest claimed priority date and $70.00 as the remainder of the petition fee.)

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **13 February 2002**.

Derek A. Putonen
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2ND FLOOR
ARLINGTON VA 22202

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OFFICE OF PETITIONS

In re Application of :
Tadahiro Ohmi, et al. :
Application No. 10/049,499 : DECISION ON PETITION
Filed: June 21, 2002 :
Attorney Docket No. 8075-1056 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 8, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 13, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed December 13, 2005. Accordingly, the date of abandonment of this application is March 14, 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, (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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BIRCH STEWART, KOLASCH & BIRCH
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FALLS CHURCH, VA 22040-0747

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OFFICE OF PETITIONS

In re Patent No. 6,713,591

Issue Date: March 30, 2004

Application No. 10/049,517

Filed: March 5, 2002

Attorney Docket No. **1752-0155P**

ON PETITION

This is a decision on the petition filed July 19, 2004, to waive the rules and accept the correction of the assignee on the front page of the above-identified patent.

The petition is **granted**.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction showing the name of the assignee as: **"Nippon Steel Chemical Co., Ltd."**

The application file will be forwarded to the Certificate of Corrections Branch for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY & POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 04/21/2010

Applicant	: Juergen Heymann	: DECISION ON REQUEST FOR
Patent Number	: 7606901	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/049,522	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **852** 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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BASF CORPORATION
ANNE GERRY SABOURIN
26701 TELEGRAPH ROAD
SOUTHFIELD, MI 48034-2442

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AUG 1 6 2004

OFFICE OF PETITIONS

In re Application of :
Manuela Armbrust et al :
Application No. 10/049,532 : DECISION GRANTING PETITION
Filed: February 12, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. IN-5551 :

This is a decision on the petition, filed August 6, 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 May 14, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1713 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).

10 MAR 2004
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Michael J. Striker
Striker Striker & Stenby
103 East Neck Road
Huntington, NY 11743

In re Application of	:	
Kraenzler	:	
Application No. 10/049,546	:	DECISION ON
PCT No.: PCT/DE01/02024	:	
Int. Filing Date: 25 May 2001	:	PETITION UNDER
Priority Date: 15 June 2000	:	
Atty. Docket No.: 1969	:	37 CFR 1.137(b)
For: Power Tool With At Least One Handle	:	

This is in response to the "Petition Top Revive" and the "Petition TO Accept Patent Application Without Signature Of All Inventors" filed on 05 June 2003, which are being treated under 37 CFR 1.137(b) and 37 CFR 1.47(a), respectively.

BACKGROUND

This international application was filed on 25 May 2001, claimed an earliest priority date of 15 June 2000, and designated the U.S. No 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 30 May 2003. The 20 month time period for paying the basic national fee in the United States expired at midnight on 15 February 2002.

On 13 February 2002, applicants filed *inter alia* the basic national fee.

On 07 May 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of a copy of the international application and an executed oath or declaration of the inventors. This international application became abandoned with respect to the national stage in the United States for failure to timely reply to the Notification of Missing Requirements.

DISCUSSION

Petition 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 required reply in the form of an executed oath or declaration of the inventors has not been filed, as explained in the treatment of the petition under 37 CFR 1.47(a) below. The requirement for a copy of the international application has been satisfied, since the USPTO has now received the published international application from the International Bureau. As such, requirement (1) has not yet been satisfied.

Regarding requirement (2), the petition includes authorization to charge the petition fee to petitioner's Deposit Account.

Regarding requirement (3), the petition includes a statement that "the entire delay from the due date for reply to the filing of a grantable petition was unintentional." 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.

Petition Under 37 CFR 1.47(a)

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) and (4), but has not satisfied requirements (2) and (3).

Regarding requirement (1),the petition includes authorization to charge the petition fee to petitioner's Deposit Account.

Regarding requirement (2), petitioner urges that non-signing joint inventor Franz Scheschark "has steadfastly refused to sign the application papers." However, the evidence currently of record does not clearly establish that this alleged refusal was a refusal to execute an oath or declaration directed to this specific U.S. national stage application, after being presented with the oath or declaration and a copy of the international application. The evidence of communications with Mr. Scheschark suggests has refusal to sign unspecified papers related to Robert Bosch GmbH reference R.38531. However, counsel has not specifically established that the papers Mr. Scheschark is refusing to sign include an oath or declaration. Neither has petitioner clearly established that Mr. Scheschark has been presented with a complete copy of the international application he is being asked to execute. In the absence of specific showings on these points, it would not be appropriate to conclude

requirement (2) to have been satisfied.

Regarding requirement (3), the petition does not include an explicit statement of non-signing joint inventor Franz Scheschark's last known address. Accordingly, requirement (3) has not been satisfied.

Regarding requirement (4), the declaration is acceptable for purposes of compliance with 35 U.S.C. 371.

DECISION

The petition under 37 CFR 1.137 (b) is **DISMISSED**, without prejudice.

The petition under 37 CFR 1.47 (a) is **DISMISSED**, without prejudice.

Counsel's Deposit Account No. 19-4675 is being charged in the amounts of $1330.00 and $130.00 for the petition fees, as authorized by the instant submission.

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 1.137(b)" and/or "Renewed Petition Under 37 CFR 1.47 (a)." 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
Fax: (703) 308-6459

- 3 JAN 2005

#6

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Michael J. Striker
Striker Striker & Stenby
103 East Neck Road
Huntington, NY 11743

In re Application of	:	
Kraenzler et al.	:	
Application No. 10/049,546	:	DECISION ON
PCT No.: PCT/DE01/02024	:	
Int. Filing Date: 25 May 2001	:	PETITION UNDER
Priority Date: 15 June 2000	:	
Atty. Docket No.: 1969	:	37 CFR 1.137(b)
For: Power Tool With At Least One Handle	:	

This is in response to the "Renewed Petition Under 37 CFR 1.137(b) And Renewed Petition Under 37 CFR 1.47(a)" filed on 12 July 2004.

DISCUSSION

Petition 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.

In a decision mailed on 10 March 2004, the petition under 37 CFR 1.137(b) filed on 05 June 2003 was dismissed without prejudice because requirement (1) had not been satisfied. In particular, required reply in the form of an acceptable, executed oath or declaration of the inventors had not been filed, as explained in the treatment of the petition under 37 CFR 1.47(a) also appearing in that decision. As discussed *infra,* petitioner has not yet satisfied that requirement in the sense that petitioner has submitted neither an acceptable declaration signed by all of the inventors nor a grantable petition under 37 CFR 1.47. Accordingly, requirement (1) has not been satisfied.

Petition Under 37 CFR 1.47(a)

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.

In the decision mailed on 10 March 2004, the previous petition under 37 CFR 1.47(a) was dismissed without prejudice because requirement (2) had not been satisfied. Specifically,

> Regarding requirement (2), petitioner urges that non-signing joint inventor Franz Scheschark "has steadfastly refused to sign the application papers." However, the evidence currently of record does not clearly establish that this alleged refusal was a refusal to execute an oath or declaration directed to this specific U.S. national stage application, after being presented with the oath or declaration and a copy of the international application. The evidence of communications with Mr. Scheschark suggests has refusal to sign unspecified papers related to Robert Bosch GmbH reference R.38531. However, counsel has not specifically established that the papers Mr. Scheschark is refusing to sign include an oath or declaration. Neither has petitioner clearly established that Mr. Scheschark has been presented with a complete copy of the international application he is being asked to execute. In the absence of specific showings on these points, it would not be appropriate to conclude requirement (2) to have been satisfied.

The instant renewed petition is accompanied by a "Declaration" signed by Mrs. Minder, stating that, in her capacity "as a secretary in the Patent Department of Robert Bosch GmbH," that "the documents which I sent to Mr. Scheschark were a complete copy of the international application relating to PCT/DE01/02024 which is Bosch Ref. R. 38531, as well as the Declaration for signature and dating and return." It is presumed that Mrs. Minder possesses sufficient comprehension of the English language to understand the statements she has subscribed to in this "Declaration;" if this is not the case, counsel is required to notify this Office promptly. In view of Mrs. Minder's declaration, it would now be appropriate to conclude that requirement (2) has been satisfied.

Regarding requirement (3), the decision mailed on 10 March 2004 also dismissed the previous petition under 37 CFR 1.47(a) because the petition "does not include an explicit statement of non-signing joint inventor Franz Scheschark's last known address. Accordingly, requirement (3) has not been satisfied." Counsel still has not provided an explicit statement of Mr. Scheschark's last known address and, therefore, requirement (3) still has not been met.

DECISION

The petition under 37 CFR 1.137 (b) is **DISMISSED**, without prejudice.

The petition under 37 CFR 1.47 (a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)"

and/or "Renewed Petition Under 37 CFR 1.47 (a)." 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.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
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29 APR 2005
UNITED STATES PATENT AND TRADEMARK OFFICE

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Michael J. Striker
Striker Striker & Stenby
103 East Neck Road
Huntington, NY 11743

In re Application of	:	
Kraenzler et al.	:	
Application No. 10/049,546	:	DECISION
PCT No.: PCT/DE01/02024	:	
Int. Filing Date: 25 May 2001	:	ON
Priority Date: 15 June 2000	:	
Atty. Docket No.: 1969	:	PETITION
For: Power Tool With At Least One Handle	:	

This is in response to the "Renewed Petition Under 37 CFR 1.137(b)" filed on 03 February 2005, which is being treated as a renewed petition under 37 CFR 1.137(b) and 37 CFR 1.47(a).

DISCUSSION

Petition 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. In a decision mailed on 03 January 2005, the petition under 37 CFR 1.137(b) filed on 05 June 2003 was dismissed without prejudice because requirement (1) had not been satisfied. In particular, required reply in the form of an acceptable, executed oath or declaration of the inventors had not been filed, as explained in the treatment of the petition under 37 CFR 1.47(a) also appearing in that decision. As discussed *infra,* petitioner has now satisfied that requirement in the sense that petitioner has submitted a grantable petition under 37 CFR 1.47. Accordingly, requirement (1) has now been satisfied, and therefore it would now be appropriate to grant the petition under 37 CFR 1.137(b).

Petition Under 37 CFR 1.47(a)

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. In the decision mailed on 03 January 2005, it was explained that requirements (1), (2) and (4) had been satisfied, but requirement (3) had not been satisfied because

> the petition "does not include an explicit statement of non-signing joint inventor Franz Scheschark's last known address. Accordingly, requirement (3) has not been satisfied." Counsel still has not provided an explicit statement of Mr. Scheschark's last known address and, therefore, requirement (3) still has not been met.

The current renewed petition includes an explicit statement of Mr. Scheschark's last known address, thereby satisfying requirement (3). As such, it would now be appropriate to grant the petition under 37 CFR 1.47(a).

DECISION

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

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

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. Its date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) is **05 June 2003**.

for Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

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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 address of the non-signing inventor. The inventor whose signature is missing (Franz Scheschark) 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/DE01/02024 and was filed on May 25, 2001 in the names of Ernst Kraenzler, Manfred Ruff, Harald Krondorfer, Ralph Dammertz, Joerg Goehner, Mario Frank and Franz Scheschark for the invention entitled POWER TOOL COMPRISING AT LEAST ONE HANDLE. The national stage application number is 10/049,546 and has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of June 5, 2003.

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Paper No. 14

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

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OFFICE OF PETITIONS

In re Application of :
Borer et al. :
Application No. 10/049,549 : ON PETITION
Filed: 17 May, 2002 :
Atty Dkt No. GK-BUE-103/500647.2004 :

This is a decision on the petition filed on 4 February, 2004, and styled under 37 CFR 1.182, which is treated as a petition, to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

The application was held abandoned on 13 June, 2003, for failure to timely respond to the non-final Office action mailed on 12 March, 2003, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on 5 December, 2003.

Petitioners asserts that an amendment and a three (3) month extension of time were timely filed on 12 September, 2003. In support of the petition, petitioners have submitted a copy of the amendment and extension of time and a postcard itemizing the filing of such bearing an "Office date" stamp of 12 September, 2003.

A review of the documents submitted reveals that the amendment and extension of time request filed in response to the Office action mailed on 12 March, 2003 miscaptions the application number as 10/048,549. Under current Office procedure, a response that has an incorrect serial number is handled in accordance with MPEP 508.03. If a paper having an incorrect serial number contains sufficient information to identify the correct

application and was timely received at the PTO, the holding of abandonment will be withdrawn.

The joint inventors' last names, title of invention, filing date, attorney docket number, examiner's name, and Art Unit are correctly stated on the amendment and extension of time. In reviewing the papers which were submitted, it is therefore concluded that there was sufficient information thereon to associate the papers with the instant file. Additionally, the originally filed amendment and extension of time, bearing an "Office-date" stamp of 12 September, 2003, have now been placed in the present application file. It is therefore concluded that the amendment and extension of time were in received in the Office.

The petition complies with the requires set forth in 37 CFR 1.8(b).

Accordingly, the holding of abandonment is withdrawn. The petition fee of $130.00 and extension of time fee of $950.00 submitted with the present petition, will be credited to counsel's deposit account, No. 50-1529. Additionally, the extension of time fee paid with the papers filed on 12 September, 2003, will be credited to the proper application number.

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

21 JUN 2002

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Martin Fleit
Fleit Kain Gibbons Gutman & Bongini
520 Brickell Key Drive #A201
Miami, FL 33131-2660

In re Application of MENZ et al
U.S. Application No.: 10/049,558
Int. Application No.: PCT/EP00/06109
Int. Filing Date: 30 June 2000
Priority Date: 14 August 1999
Attorney Docket No.: 740-X02-007
For: ARTIFICIAL TEAR REPLACEMENT SOLUTION

DECISION

This is in response to applicant's "Petition to the Commissioner Under 37 C.F.R. 182" filed 28 February 2002. The requisite $130.00 petition fee will be charged to Deposit Account No. 50-0601 per applicant's authorization.

BACKGROUND

On 30 June 2000, applicant filed international application PCT/EP00/06109, which claimed priority of an earlier Germany application filed 14 August 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 22 February 2001. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 14 February 2002.

On 14 February 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, a Transmittal Letter and the basic national fee required by 35 U.S.C. 371(c)(1). The Transmittal Letter references International Application Number PCT/DE00/06109.

On 28 February 2002, applicant filed the present petition, which is being treated as a petition to correct the Transmittal Letter filed 14 February 2002. The petition states that the correct International Application Number is PCT/EP00/06109.

On 08 May 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

DISCUSSION

The petition states that the Transmittal Letter erroneously listed PCT/DE00/06109 as the International Application Number and that the correct International Application Number is PCT/EP00/06109. The petition further states that the error was made by inadvertent mistake. Applicant's explanation for the discrepancy is accepted.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) to await a response to the Notification of Missing Requirements mailed 08 May 2002.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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NEW YORK, NY 10112

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OFFICE OF PETITIONS

In re Application of :
Balu Jeganathan et al :
Application No. 10/049,572 : NOTICE
Filed: February 14, 2002 :
Attorney Docket No. EU20638664691S :

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 matter is being referred to Publishing Division.

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

cc: KNOBBE MARTENS OLSON & BEAR
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

UNITED STATES PATENT
AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Date Mailed: October 3, 2008
Patent No. :7,384,908 B1
Ser. No. :10/049587
Inventor(s) :Douglas E. Brenneman, et al.
Title :ORALLY ACTIVE PEPTIDES THAT PREVENT CELL DAMAGE AND DEATH

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 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

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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.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

Beth L. Kelly
Townsend & Townsend and Crew LLP
Two Embarcadero Center, 8th Fl.
San Francisco, CA 94111-3834

MD/mt

UNITED STATES PATENT AND TRADEMARK OFFICE

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SAN FRANCISCO, CA 94111-3834

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MAR 05 2009

OFFICE OF PETITIONS

In re Patent No. 7,384,908	:	
Application No. 10/049,587	:	
Filed: February 12, 2002	:	ON PETITION
Issued: June 10, 2008	:	
Attorney Docket No. 15280W-0021US	:	

This is a decision on the petition filed October 21, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the first assignee and to add the name of the second assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED IN PART.**

The request to correct the first assignee's name from "National Institute of Health" to "The Government of the United States of America as Represented by the Secretary of the Department of Health and Human Services" is granted.

However, the request to add the second assignee's name is dismissed. 37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but ***prior to issuance of a patent.*** Patent and Trademark Office assignment records disclose that the Change of Name Assignment was recorded on August 5, 2008, after the date of issuance of this patent.

Accordingly, since the corrective assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction to reflect the addition of the second assignee under the name "Ramot at Tel-Aviv University Ltd." would not be proper. *See* MPEP Section 307.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction to correct the name of the first assignee only.

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.

I hereby certify that this correspondence is being filed via EFS-Web with the United States Patent and Trademark Office on October 21, 2008.

TOWNSEND and TOWNSEND and CREW LLP

By: /Jennifer M. Smolen/
Jennifer M. Smolen

PATENT
Attorney Docket No.: 15280W-002100US
Ramot Ref.: 0019451-00-00
NIH Ref.: E-286-1998/1-US-06

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Douglas E. Brenneman *et al.*

Patent No.: 7,384,908 B1

Issued: Jun. 10, 2008

Application No.: 10/049,587

Filed: Feb. 12, 2002

For: ORALLY ACTIVE PEPTIDES THAT PREVENT CELL DAMAGE AND DEATH

Customer No.: 45115

Confirmation No. 9701

Examiner: S. H. Standley

Technology Center/Art Unit: 1649

PETITION FOR CORRECTION UNDER 37 CFR § 3.81(b)

03/05/2009 CKHLOK 00000007 201430 7384908

01 FC:1808 130.00 DA
02 FC:1811 100.00 DA

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

Sir:

Pursuant to 37 CFR §3.81(b), Applicants submit herewith a Certificate of Correction (PTO/SB/44) to correct the first Assignee's name in the patent, and to add the second Assignee's name in the patent. The errors were made at the time of paying the issue fee, were made without any deceptive intent, and the corrections do not constitute new matter.

Attached hereto is a copy of the recorded assignment for the above-identified application from the inventors to The Government of the United States of America as Represented by the Secretary of the Department of Health and Human Services, and to Ramot – University Authority for Applied Research and Industrial Development Ltd., which was recorded before issuance of the patent. Also attached is a copy of the recorded Change of Name document for Ramot University, changing its' name to Ramot at Tel-Aviv University Ltd. While the

Adjustment date: 03/05/2009 CKHLOK
09/18/2008 INTEFSW 00000590 201430 10049587
01 FC:1811 100.00 CR

Adjustment date: 03/05/2009 CKHLOK
10/21/2008 INTEFSW 00007288 201430 10049587
01 FC:1464 130.00 CR

change of Ramot University's name occurred before issuance of the patent, the Change of Name document was not recorded with the U.S. Patent Office until after issuance.

Applicants request that this Petition be forwarded to the Certificates of Correction Branch, for issuance of a Certificate of Correction, once the Petition is granted.

The Commissioner is authorized to deduct the fee of $130.00 associated with this submission from the undersigned's Deposit Account No. 20-1430. The $100.00 fee for the Certificate of Correction was paid on September 17, 2008.

Respectfully submitted,

Date: October 21, 2008

By: / Beth L. Kelly /
Beth L. Kelly
Reg. No. 51,868

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 206-467-9600/Fax: 415-576-0300
Attachments
BLK:jms
61619073 v1

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper N .: _____

DATE : July 19, 2006

TO SPE OF : ART UNIT 1732

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/049599 Patent No.: 6,994,815

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: _____

Christina Johnson

SPE 8/31/06 1732 **Art Unit**

OIPE JC101 MAY 17 2005 PATENT & TRADEMARK OFFICE

LAW OFFICES

LADAS & PARRY LLP

BRIAN W. HAMEDER

Telephone: (312) 427-1300 ext. 224
Email: brian.hameder@ladas.net

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CHICAGO, ILLINOIS 60604

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TELEFAX: (312) 427-6663
(312) 427-6668
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52-54 HIGH HOLBORN
LONDON WC1V 6RR, ENGLAND

DACHAUERSTRASSE 37
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Certification of Facsimile Transmission

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being facsimile transmitted to the Patent & Trademark Office to Fax No. (703) 746-4000 on May 17, 2005 (7 pages).

Debra M. Szumowski
Name

Signature

May 17, 2005

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attention: Examiner: Watts, Douglas D.
Group Art Unit: 3724

REQUEST FOR DUPLICATE COPY OF NOTICE OF ALLOWANCE & PAYMENT OF ISSUE FEE

Re: Reinhold Reiling et al
U.S. Serial No. 10/049,618
Filed February 22, 2002
Device For Post-Processing, More Particularly Sharpening A Tool Having A Plurality Of Teeth
Our Docket: CU-3384

Dear Sir:

The last communication received in this application is a Decision on our Petition, which was mailed by the Patent Office on December 8, 2004, a copy of which is attached. The Decision indicated that a new Notice of Allowance would be issued, setting a term of three months for payment of the issue fee.

05/23/2005 BABRAHA2 00000027 120400 10049618

01 FC:2501 700.00 DA
02 FC:1504 300.00 DA

On February 17, 2005, a check was made of the PAIR website , in which attention is made to the last entry dated December 8, 2004: "Petition to Revive Application - Granted".

On March 11, 2005, a further check was made of the PAIR website, in which it was noted that on February 23, 2005 a corrected notice of allowance was mailed. However, it is noted that the Notice of Allowability does not appear in the Image Wrapper to enable the undersigned to download the same.

A check of the undersigned's file and all records relating to this application was made and once again, it is believed that the Notice of Allowance was never received in our office.

On March 17, 2005, a telephone call was made to Alan Shope(?) in Group 3700 explaining that the Notice of Allowance which was mailed on February 23 was never received. Mr.Shope indicated that he would send an e-mail to the clerk (Valerie Douglas) instructing her to remail a copy of the Notice of Allowance. Ms. Douglas was also contacted on March 17. Ms. Douglas indicated that she would contact the Examiner (Douglas Watts), indicating that it was the Examiner's responsibility to reorder the file and resend the notice of Allowability.

To date, the Notice of Allowance has never been received. **A duplicate copy of said Notice of Allowance together with all enclosures is hereby respectfully requested to be facsimiled transmitted to the undersigned at Fax No. (312) 427-1300.**

In addition, it is respectfully requested that the appropriate Issue Fee (and if applicable the publication fee) be charged to our Deposit Account No. 12-0400 to prevent this application from once again becoming abandoned due to failure to receive the Notice of Allowance.

Respectfully submitted,

Brian W. Hameder, Reg. 45613
Attorney for Applicant

BWH:ds/15-16
Enclosures

OIPE MAY 17 2005 PATENT & TRADEMARK OFFICE
MAY 17 2005
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DEC -8 2004 2004 DEC 13 PM 2:44

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www.uspto.gov

Paper No. 9

In re Application of :
Reinhold Reiling *et al* :
Application No. 10/049,618 : DECISION ON PETITION
Filed: February 22, 2002 :
Attorney Docket No. CU-3384 (02039) :

This is a decision on the petition originally filed on March 26, 2004, as resubmitted by facsimile transmission on August 16, 2004, by which petitioners request withdrawal of the holding that this application is abandoned for failure to pay the issue fee that was due on or before December 22, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because petitioners did not receive the Notice of Allowance dated September 22, 2003, or any of the attachments thereto. Therefore, the fee could not be paid. In support of this allegation, petitioner has made a showing as discussed at MPEP § 711.03(c). The showing has been reviewed and it clearly satisfies the requirements of the Notice published at 1156 OG 53 pertaining to abandonment resulting from nonreceipt of Office correspondence. Based upon petitioners' showing, it is clear this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for Technology Center 3700 to:

1. Enter the associate power of attorney and change of correspondence address that were also filed on March 26, 2004, prior to the recent amendments to 37 CFR 1.32; and

2. Mail a new Notice of Allowance, together with a complete copy of the Notice of Allowability and all attachments thereto. The period for payment of the Issue Fee will run THREE MONTHS from the date upon which the new Notice of Allowance is mailed, and cannot be extended pursuant to 37 CFR 1.136. **The period for reply to certain requirements that may be set forth on the attached Notice of Allowability with respect to the submission of an oath or declaration, and with respect to certain requirements pertaining to the submission of formal drawings or drawing corrections, can no longer be extended. See 37 CFR 1.85(c), and 37 CFR 1.136(c) as amended, effective November 7, 2000, published at 65 Federal Register 54670 and 54674, respectively.**

After the above mailings are accomplished, the application will be forwarded to the Office of Patent Publication for processing into a patent.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Richard J. Streit
c/o Ladas & Parry
224 south Michigan Avenue
Chicago, IL 60604

OIPE MAY 17 2005 PATENT & TRADEMARK OFFICE

United States Patent and Trademark Office

PATENT APPLICATION INFORMATION RETRIEVAL

Printer Friendly Version

Search results as of: 2-17-2005::15:19:37 E.T.

Search results for application number: 10/049,618

Application Number:	10/049,618	Customer Number:	26530
Filing or 371(c) Date:	02-22-2002	Status:	Abandoned -- Failure to Pay Issue Fee
Application Type:	Utility	Status Date:	01-26-2004
Examiner Name:	WATTS, DOUGLAS D	Location:	TC 3700 SPE OF GAU ASSIGNED
Group Art Unit:	3724	Location Date:	02-13-2005
Confirmation Number:	7758	Earliest Publication No:	-
Attorney Docket Number:	02039	Earliest Publication Date:	-
Class/ Sub-Class:	076/048	Patent Number:	-
First Named Inventor:	Reinhold Reiling, Konigsbach-Stein, (DE)	Issue Date of Patent:	-
Title Of Invention:	DEVICE FOR POST-PROCESSING, MORE PARTICULARLY SHARPENING, A TOOL HAVING A PLURALITY OF TEETH		

Select Search Option

Foreign Priority
Image File Wrapper
Patent Term Adjustment History

Search

File History

Date	Contents Description
12-08-2004	Petition to Revive Application - Granted
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09-22-2003	Oath or Declaration Required
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09-22-2003	Notice of Allowance Data Verification Completed

2/17/05

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02-22-2002	Preliminary Amendment
08-11-2002	Case Docketed to Examiner in GAU
04-23-2002	IFW Scan & PACR Auto Security Review
04-12-2002	Application Dispatched from OIPE
04-12-2002	Notice of DO/EO Acceptance Mailed
02-22-2002	Initial Exam Team nn

OIPE JC101 MAY 17 2005 PATENT & TRADEMARK OFFICE

PATENT APPLICATION INFORMATION RETRIEVAL

Search results as of: 3-11-2005::14:37:42 E.T.

Search results for application number: 10/049,618			
Application Number:	10/049,618	Customer Number:	26530
Filing or 371(c) Date:	02-22-2002	Status:	Allowed – Notice of Allowance Mailed – Issue Revision Completed
Application Type:	Utility	Status Date:	02-22-2005
Examiner Name:	WATTS, DOUGLAS D	Location:	TC 3700 LEGAL INSTRUMENTS EXAMINER TEAM 5, PK1-5C00
Group Art Unit:	3724	Location Date:	02-22-2005
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Attorney Docket Number:	02039	Earliest Publication Date:	-
Class/ Sub-Class:	076/048	Patent Number:	-
First Named Inventor:	Reinhold Reiling, Konigsbach-Stein, (DE)	Issue Date of Patent:	-
Title Of Invention:	DEVICE FOR POST-PROCESSING, MORE PARTICULARLY SHARPENING, A TOOL HAVING A PLURALITY OF TEETH		

574 272 4515

Search Options

- Foreign Priority
- Image File Wrapper
- Patent Term Adjustment History
- Publication Review

File History

Date	Contents Description
02-23-2005	Mail Corrected Notice of Allowance
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Certification of Facsimile Transmission

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being facsimile transmitted to the Patent & Trademark Office to Fax No. (703) 746-4000 on May 17, 2005 (7 pages).

Debra M. Szumowski
Name

Signature

May 17, 2005

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attention: Examiner: Watts, Douglas D.
Group Art Unit: 3724

REQUEST FOR DUPLICATE COPY OF NOTICE OF ALLOWANCE & PAYMENT OF ISSUE FEE

Re: Reinhold Reiling et al
U.S. Serial No. 10/049,618
Filed February 22, 2002
Device For Post-Processing, More Particularly Sharpening A Tool Having A Plurality Of Teeth
Our Docket: CU-3384

Dear Sir:

The last communication received in this application is a Decision on our Petition, which was mailed by the Patent Office on December 8, 2004, a copy of which is attached. The Decision indicated that a new Notice of Allowance would be issued, setting a term of three months for payment of the issue fee.

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In addition, it is respectfully requested that the appropriate Issue Fee (and if applicable the publication fee) be charged to our Deposit Account No. 12-0400 to prevent this application from once again becoming abandoned due to failure to receive the Notice of Allowance.

Respectfully submitted,

Brian W. Hameder, Reg. 45613
Attorney for Applicant

BWH:ds/15-16
Enclosures

MAY 17 2005 JC40 PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

LADAS & PARRY CHICAGO

DEC -8 2004 2004 DEC 13 PM 2:44

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 9

In re Application of :
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1. Enter the associate power of attorney and change of correspondence address that were also filed on March 26, 2004, prior to the recent amendments to 37 CFR 1.32; and

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PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Richard J. Streit
c/o Ladas & Parry
224 south Michigan Avenue
Chicago, IL 60604

PAIR Page

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MAY 17 2005
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United States Patent and Trademark Office

PATENT APPLICATION INFORMATION RETRIEVAL

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Search results as of: 2-17-2005::15:19:37 E.T.

Search results for application number: 10/049,618

Application Number:	10/049,618	Customer Number:	26530
Filing or 371(c) Date:	02-22-2002	Status:	Abandoned -- Failure to Pay Issue Fee
Application Type:	Utility	Status Date:	01-26-2004
Examiner Name:	WATTS, DOUGLAS D	Location:	TC 3700 SPE OF GAU ASSIGNED
Group Art Unit:	3724	Location Date:	02-13-2005
Confirmation Number:	7758	Earliest Publication No:	-
Attorney Docket Number:	02039	Earliest Publication Date:	-
Class/ Sub-Class:	076/048	Patent Number:	-
First Named Inventor:	Reinhold Reiling, Konigsbach-Stein, (DE)	Issue Date of Patent:	-
Title Of Invention:	DEVICE FOR POST-PROCESSING, MORE PARTICULARLY SHARPENING, A TOOL HAVING A PLURALITY OF TEETH		

Select Search Option

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5/17/05

PAIR Page

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MAY 17 2005 PATENT & TRADEMARK OFFICE

United States Patent and Trademark Office

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Application Type:	Utility	Status Date:	02-22-2005
Examiner Name:	WATTS, DOUGLAS D	Location:	TC 3700 LEGAL INSTRUMENTS EXAMINER TEAM 5, PK1-5C00
Group Art Unit:	3724	Location Date:	02-22-2005
Confirmation Number:	7758	Earliest Publication No:	-
Attorney Docket Number:	02039	Earliest Publication Date:	-
Class/ Sub-Class:	076/048	Patent Number:	-
First Named Inventor:	Reinhold Reiling, Konigsbach-Stein, (DE)	Issue Date of Patent:	-
Title Of Invention:	DEVICE FOR POST-PROCESSING, MORE PARTICULARLY SHARPENING, A TOOL HAVING A PLURALITY OF TEETH		

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- Publication Review

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08-16-2004	Petition Entered
08-13-2004	Workflow incoming petition IFW
04-02-2004	Correspondence Address Change
01-26-2004	Mail Abandonment for Failure to Pay Issue Fee
01-26-2004	Abandonment for Failure to Pay Issue Fee
02-22-2002	Workflow - Drawings Finished
02-22-2002	Workflow - Drawings Matched with File at Contractor

3/11/05

PAIR Page

11-11-2003	Receipt into Pubs
09-30-2003	Workflow - File Sent to Contractor
09-26-2003	Receipt into Pubs
09-25-2003	Dispatch to Publications
09-22-2003	Mail Notice of Allowance
09-22-2003	Mail Formal Drawings Required
09-22-2003	Mail Oath of Declaration Required
09-22-2003	Oath or Declaration Required
09-22-2003	Formal Drawings Required
09-22-2003	Notice of Allowance Data Verification Completed
09-22-2003	Notice of Allowability
02-22-2002	Preliminary Amendment
06-11-2002	Case Docketed to Examiner in GAU
04-23-2002	IFW Scan & PACR Auto Security Review
04-12-2002	Application Dispatched from OIPE
04-12-2002	Notice of DO/EO Acceptance Mailed
02-22-2002	Initial Exam Team nn

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC - 8 2004

Paper No. 9

In re Application of :
Reinhold Reiling *et al* :
Application No. 10/049,618 : DECISION ON PETITION
Filed: February 22, 2002 :
Attorney Docket No. CU-3384 (02039) :

This is a decision on the petition originally filed on March 26, 2004, as resubmitted by facsimile transmission on August 16, 2004, by which petitioners request withdrawal of the holding that this application is abandoned for failure to pay the issue fee that was due on or before December 22, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because petitioners did not receive the Notice of Allowance dated September 22, 2003, or any of the attachments thereto. Therefore, the fee could not be paid. In support of this allegation, petitioner has made a showing as discussed at MPEP § 711.03(c). The showing has been reviewed and it clearly satisfies the requirements of the Notice published at 1156 OG 53 pertaining to abandonment resulting from nonreceipt of Office correspondence. Based upon petitioners' showing, it is clear this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for Technology Center 3700 to:

1. Enter the associate power of attorney and change of correspondence address that were also filed on March 26, 2004, prior to the recent amendments to 37 CFR 1.32; and

2. Mail a new Notice of Allowance, together with a complete copy of the Notice of Allowability and all attachments thereto. The period for payment of the Issue Fee will run THREE MONTHS from the date upon which the new Notice of Allowance is mailed, and cannot be extended pursuant to 37 CFR 1.136. **The period for reply to certain requirements that may be set forth on the attached Notice of Allowability with respect to the submission of an oath or declaration, and with respect to certain requirements pertaining to the submission of formal drawings or drawing corrections, can no longer be extended. See 37 CFR 1.85(c), and 37 CFR 1.136(c) as amended, effective November 7, 2000, published at 65 Federal Register 54670 and 54674, respectively.**

After the above mailings are accomplished, the application will be forwarded to the Office of Patent Publication for processing into a patent.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Richard J. Streit
c/o Ladas & Parry
224 south Michigan Avenue
Chicago, IL 60604

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ARENT FOX KINTNER PLOTKIN & KAHN
1050 CONNECTICUT AVENUE N.W., SUITE 600
WASHINGTON, DC 20036-5339

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OFFICE OF PETITIONS

In re Application of :
Takayuki Matsui et al :
Application No. 10/049,635 : ON PETITION
Filed: February 25, 2002 :
Attorney Docket No. 100021-00073 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 15, 2006, to withdraw the above-identified application from issue after payment of the issue fee. See 1233 *Official Gazette* 54 (April 11, 2000).

The petition is **DISMISSED as moot.**

Unfortunately, the petition did not reach the appropriate official for a decision until after the above-identified application issued as U.S. Patent No. 7,110,600. Any inconvenience caused petitioners is regretted.

The Request for Continued Examination (RCE) deposited on September 15, 2006, is considered an improper submission under 37 CFR 1.114 and will not be further processed. The RCE filing fee is being refunded to counsel's deposit account.

The information disclosure statement (IDS) has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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#7

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01 JUL 2003

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

In re Application of Alain DION et al. Application No.: 10/049,643 PCT No.: PCT/FR00/02247 Int. Filing Date: 04 August 2000 Priority Date: 24 August 1999 Attorney Docket No.: 219210US6XPCT For: TOOL FOR PRODUCING CAMSHAFTS BY EXPANDING	:	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicants' "Petition under 37 CFR 1.181 to Withdraw Holding of Abandonment" filed on 06 February 2003 in the United States Patent and Trademark Office (USPTO) advising that a declaration was filed on 19 June 2002 in the above referenced application. No petition fee is required.

On 19 April 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b). On 19 June 2002, a Response to Notice of Missing Requirements under 35 U.S.C. 371 was received in the USPTO accompanied by an executed declaration.

On 13 January 2003, a Notification of Abandonment was inadvertently mailed to applicants indicating that no reply to the 19 April 2002 Notification of Missing Requirements was received and the application was abandoned. On 06 February 2003, applicants submitted the instant petition under 37 CFR 1.181 along with a copy of a USPTO date-stamped itemized postcard receipt indicating that the declaration was allegedly deposited on 19 June 2002.

A review of the application file reveals that a declaration was filed on 19 June 2002 and is found in the application file. The declaration was received and is date-stamped "REC'D PCT/PTO 19 JUN 2002". The declaration, executed by the inventors, is acceptable as it meets the requirements of 37 CFR 1.497 and 35 U.S.C. 371.

CONCLUSION

For the reasons stated above, the petition under 37 CFR 1.181 is **MOOT**. The 13 January 2003 Notification of Abandonment is hereby **VACATED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c) date is **19 June 2002.** A refund of the $130 petition fee will be credited to applicant's deposit account.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

APR 2 4 2002

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Washington, D.C. 20231
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Alan W. Fiedler
BECTON, DICKINSON AND COMPANY
1 Becton Drive
Franklin Lakes, New Jersey 07417-1880

In re Application of
BUSH, Charles *et al*
U.S. Application No.: 10/049,655
PCT No.: PCT/US00/20938
Int. Filing Date: 31 July 2000
Priority Date: 05 August 1999
Attorney Docket No.: P-4615.70
For: MEDICATION DELIVERY PEN

DECISION ON
PETITION FOR REVIVAL
UNDER 37 CFR 1.137(b)

Applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 13 February 2002 in the above-captioned application is hereby **GRANTED** as follows:

The appropriate basic national fee and petition fee have been paid. Applicants state that "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration was not included with any of the papers submitted.

Accordingly, this application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee pursuant to 37 CFR 1.492(e) is required.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

24 JUL 2003

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Pillsbury Winthrop LLP
Intellectual Property Group
Carmel Valley Centre I
11975 El Camino Real, Suite 200
San Diego, CA 92130-2593

In re Application of :
ANDERSSON, Carl M. :
Application No.: 10/049,669 : DECISION ON
PCT Application No.: PCT/US00/21225 :
International Filing Date: 03 August 2000 : PETITION
Priority Date: 03 August 1999 :
Attorney Docket No.: 015185/0282093 : UNDER 37 CFR 1.137(b)
For: SOLID PHASE PARALLEL :
SYNTHESIS OF TERTIARY AMINES :

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 12 February 2002 is **GRANTED**.

BACKGROUND

On 03 August 2000, applicants filed international application number PCT/US00/21225, which claimed a priority date of 03 August 1999. On 27 February 2001, 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 04 February 2002 (03 February 2002 was a Sunday).

On 12 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.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing, including preparation of a Notification of Missing Requirements indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration are required.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

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Paper No. 11

GARY A ESSMANN
ANDRUS SCEALES STARKE & SAWALL
SUITE 1100
100 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-4178

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OFFICE OF PETITIONS

In re Application of :
Thomas Tiedemann et al :
Application No. 10/049,690 : ON PETITION
Filed: June 18, 2002 :
Attorney Docket No. 825-161 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 10, 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 August 27, 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 28, 2003.

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

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 $2,010.00 extension of time submitted with the petition on June 10, 2004 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to: Mail Stop 16, Director of the United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

The application file is being forwarded to Technology Center AU 3746.

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

10 JUN 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David E. Dougherty
DENNISON SCHULTZ & DOUGHERTY
612 Crystal Square 4
1745 Jefferson Davis Highway
Arlington, VA 22202

In re Application of :
HASEGAWA, Toshiaki *et al* :
Application No.: 10/049,695 :
PCT No.: PCT/JP00/05464 :
Int. Filing Date: 16 August 2000 : **DECISION**
Priority Date: 16 August 1999 :
Attorney Docket No.: 3147/6 :
For: DEVICE AND METHOD FOR FEEDING FUEL :

This decision is in response to the declaration filed on 11 April 2002 which is treated as a submission under 37 CFR 1.42.

BACKGROUND

On 15 February 2001, applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, the basic national fee.

On 11 April 2002, applicants filed a declaration signed by two of the three co-inventors and Kiyoko Hoshino for deceased co-inventor, Toshihumi Hoshino.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> 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.

Applicants have furnished a declaration signed by Kiyoko Hoshino as the "heiress" of Toshihumi Hoshino who is deceased. In the declaration, applicants have provided the name, citizenship, residence, and last mailing address of either the

deceased inventor or Kiyoko Hishino. Applicants must provide this information for both the deceased inventor and the legal representative. *See* 37 CFR 1.497.

CONCLUSION

For the reason discussed above, applicants' petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136.

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Boris Milef
PCT Legal Examiner
PCT Legal Office

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

26 NOV 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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David E. Dougherty
DENNISON SCHULTZ & DOUGHERTY
612 Crystal Square 4
1745 Jefferson Davis Highway
Arlington, VA 22202

In re Application of :
HASEGAWA, Toshiaki *et al* :
Application No.: 10/049,695 :
PCT No.: PCT/JP00/05464 :
Int. Filing Date: 15 August 2000 :
Priority Date: 16 August 1999 :
Attorney Docket No.: 3147/6PCT :
For: DEVICE AND METHOD FOR FEEDING FUEL :

DECISION ON RENEWED PETITION UNDER 37 CFR 1.42

This decision is in response to the papers filed on 23 September 2002 which are treated as a renewed submission under 37 CFR 1.42.

BACKGROUND

On 10 June 2002, a decision dismissing applicants' petition under 37 CFR 1.42 was mailed because the declaration did not contain the required information pursuant to 37 CFR 1.497 for the deceased inventor and the legal representative. Applicants were given two months to respond.

On 23 September 2002, applicants filed a "New Declaration" which was accompanied by, *inter alia*, a new executed declaration, and a two-month extension with the $400.00 extension fee.

DISCUSSION

The declaration submitted with the instant petition on 23 September 2002 provides the name, citizenship, residence, and last mailing address of the deceased inventor, Toshihumi Hoshino and the legal representative Kiyoko Hishino as required. The two other co-inventors also signed the declaration.

This declaration complies with 37 CFR 1.497(a) and (b).

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C.

371(c). The application has an international filing date of 15 August 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **23 September 2002**.

This application is being forwarded to the United States Designated/Elected Office for further processing in accordance with this decision.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

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LOWE HAUPTMAN BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Hasegawa et al.	:	
Application No. 10/049,695	:	ON PETITION
Filed: September 23, 2002	:	
Attorney Docket No. 3147/6	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 27, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

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

APR 24 200
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T. David Reed
Patent Division - International
THE PROCTOR & GAMBLE COMPANY
Ivorydale Technical Center
5299 Spring Grove Avenue
Cincinnati, Ohio 45217

In re Application of
VAN HAUWERMEIREN, Tim *et al*
U.S. Application No.: 10/049,735
PCT No.: PCT/US00/05200
Int. Filing Date: 01 March 2000
Priority Date: 02 March 1999
Attorney Docket No.: 0690-0115P
For: PROCESS FOR ISOLATION OF IN VITRO DIFFERENTIATED . . .

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' "Petition for Revival of an International Application for Patent Designating the US Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 15 February 2002 is hereby **GRANTED** as follows:

The appropriate basic national fee, extra claim fee and petition fee has been paid. Applicants state that "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required in this case. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

The surcharge fee of $130.00 pursuant to 37 CFR 1.492(e) has been charged to Deposit Account No. 16-2480 as authorized.

Applicants have completed the requirements for acceptance under 35 U.S.C. § 371(c). The application has an international filing date of 01 March 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **15 February 2002**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : April 7, 2006

TO SPE OF : ART UNIT 2836

SUBJECT : Request for Certificate of Correction on Patent No.: 10049746

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

Thank You For Your Assistance — **Certificates of Correction Branch**

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

☐ **Approved** — **All** changes apply.

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

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

Comments:

The change to Column 1, line 4 is not entered because the identified Great Britain Application number is incorrect. The last 3 digits listed 41.8 should be 4.8. Because of this error this correction is not approved.

BRIAN SIRCUS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE: 2836 **Art Unit**

22 JUL 2003
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Gary D. Colby, Ph.D., J.D.
AKIN, GUMP, STRAUSS, HAUER &
FELD, L.L.P.
One Commerce Square
2005 Market Street - Suite 2200
Philadelphia, PA 19103-7086

In re Application of :
REINER CLASS ET AL. :
Appl. No.: 10/049,753 : DECISION UNDER
PCT No.: PCT/US00/21747 : 37 CFR 1.181
Int. Filing Date: 09 August 2000 :
Priority Date: 11 August 1999 :
Agent's File Reference: 10573-1U1 :
For: ANTIMICROBIAL HISTONE H1
COMPOSITIONS, KITS, AND METHODS OF
USE THEREOF

Applicants' 13 December 2002 "Petition To Withdraw Holding Of Abandonment Pursuant To 37 C.F.R. section 1.8(b)" has been received. The 13 December 2002 petition is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment. No petition fee is required. The petition is **GRANTED.**

BACKGROUND

On 29 June 2001, applicants filed U.S. application 10/049,753 as a national stage entry of international application PCT/US00/21747. A signed declaration, inter alia, was not included with the application papers.

On 05 April 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) informing applicants that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) was due.

On 10 October 2002, applicants filed , inter alia, a signed declaration and an authorization to charge any required fees to counsel's Deposit Account No. 50-1017.

Notwithstanding the above, on 27 November 2002, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) informing applicants that U.S. application 10/049,753 is abandoned because applicants purportedly failed to file a response to the Form PCT/DO/EO/905 mailed 05 April 2002.

On 13 December 2002, applicants filed the present petition requesting that the Form PCT/DO/EO/905 mailed 05 April 2002 be vacated.

On 04 March 2003, the DO/EO issued a "WITHDRAWAL OF PREVIOUSLY SENT NOTICE" withdrawing the Form PCT/DO/EO/905 mailed 27 November 2002. Additionally, a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) was also mailed on 04 March 2003.

DISCUSSION

A review of the application file reveals that applicants filed a response to the Form PCT/DO/EO/905 on 10 October 2002. The Form PCT/DO/EO/909 mailed 27 November 2002 was sent in error. The mailing of the Form PCT/DO/EO/903 and the "WITHDRAWAL OF PREVIOUSLY SENT NOTICE" is confirmed.

CONCLUSION

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED.** The Form PCT/DO/EO/909 mailed 27 November 2002 is hereby **VACATED.** This application is being returned to Technology Center 1600.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Jeremy Fleming
Paralegal Specialist
PCT Legal Office

JSF/LS:jf

(703)308-6154

12 AUG 2005

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

In re Application of	:	
SHIRAISHI et al	:	DECISION ON
Application No.: 10/049,808	:	
PCT No.: PCT/JP00/06838	:	PETITION
Int. Filing Date: 02 October 2000	:	
Priority Date: 05 October 1999	:	UNDER 37 CFR 1.182
Attorney's Docket No.: 740670-272	:	
For: METHOD AND CIRCUIT FOR ACQUISITION	:	

This is in response to the applicant's request for correction of filing receipt filed 03 March 2005. The request has been treated as a petition under 37 CFR 1.182. The $400 petition fee has been charged to counsel's Deposit Account No. 50-2280 as authorized in applicant's petition.

BACKGROUND

On 02 October 2000, applicants filed international application PCT/JP00/06838, which claimed priority to an earlier filed Japanese application filed 05 October 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 April 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 29 March 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 05 April 2002.

On 19 February 2002, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application as required by 35 U.S.C. 371(c)(2); and a declaration as required by 35 U.S.C. 371(c)(4).

On 03 March 2005, applicants filed the present petition requesting correction of the filing receipt.

DISCUSSION

The transmittal letter of 19 February 2002 identified the application number as PCT/JP00/06383. A review of the declaration filed on 19 February 2002 reveals that it is directed towards the specification filed in PCT/JP00/06838 filed 02 October 2000. Applicant inclusion of the incorrect international application number on the transmittal letter caused the Office to use the wrong international application number when preparing the US application. However, since the correct international application number appeared on declaration submitted with the transmittal letter, applicant's petition is granted. The international application number on the transmittal letter filed on 19 February 2002 has been corrected to **PCT/JP00/06838**.

CONCLUSION

The petition under 37 C.F.R. 1.182 to correct the application number is GRANTED.

Applicant' claim for priority is acknowledged. The application has an international filing date of 02 October 2000 under 35 U.S.C. 363 and a date of **19 February 2002** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

International application PCT/JP00/06838 and the Japanese priority application 11-284214 have been scanned into the Image File Wrapper for this application. The papers directed to PCT/JP00/06383 have been closed. The foreign priority data and the continuity data have been corrected in the Office's data base. A corrected Notification of Acceptance under 35 U.S.C. 371 (Form PCT/DO/EO/903) showing the correct PCT application number PCT/JP00/06838 and corrected filing receipt has been mailed to applicant.

This application is being returned to the Technology Center for continued processing.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

LES:ls

Telephone: (571) 272-3297
Facsimile: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 13, 2009

TO SPE OF : ART UNIT 1796
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/049816 /7344655

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

_____ 1796
SPE **Art Unit**

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

APR 2 4 2002

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

BIRCH, STEWART, KOLASCH & BIRCH, LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of
WOLFGANG, Franz
U.S. Application No.: 10/049,825
PCT No.: PCT/EP01/03412
Int. Filing Date: 26 March 2001
Priority Date: 24 March 2000
Attorney Docket No.: 0690-0115P
For: PROCESS FOR ISOLATION OF IN VITRO DIFFERENTIATED SOMATIC CELLS

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicant's "Petition for Revival of an International Application for Patent Designating the US Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 19 February 2002 in the above-captioned application is hereby **GRANTED** as follows:

The appropriate basic national fee and petition fee for a small entity has been paid. Applicant states that "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required in this case. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

The surcharge fee of $65.00 pursuant to 37 CFR 1.492(e) has been charged to Deposit Account No. 02-2448 as authorized.

Applicant has completed the requirements for acceptance under 35 U.S.C. § 371(c). The application has an international filing date of 26 March 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **19 February 2002**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUL 27 2004

td

Mailed :
In re Application of : DECISION ON
Uwe Keller et al. : PETITION
Serial No. 10/049,850 :
Filed: June 21, 2002
For: COMPOUND SAFETY GLASS AND PVB FOIL FOR THE PRODUCTION THEREOF

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed November 5, 2003.

On November 5, 2003, a two way restriction requirement was made by the examiner under 35 USC 121. The examiner took the position that the groupings of claims were related as a product and a process. Applicants traversed the restriction requirement in a response filed January 14, 2004. The examiner prepared an Ex Parte Quayle action that was mailed on April 14, 2004 that required applicants to either cancel the non-elected claims or take other appropriate action. A one month time period was given for applicants to respond.

On April 29, 2004, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

Applicant's position for the withdrawal of the restriction requirement is that the examiner has not shown that a lack of unity exists between the groups of claims.

DECISION

The instant application has been filed under 35 U.S.C. 371 as a national phase application of PCT/DE00/02743 and as such is subject to the unity requirements set out in PCT Rules 13.1 – 13.4 and 37 CFR 1.475, as well as the PCT Administrative Instructions, Annex B.

The examiner improperly restricted the instant application under 35 USC 121 which does not apply to U.S. National Phase Applications.

Accordingly, no lack of unity has been shown and Petitioner's arguments are persuasive. The petition to withdraw the restriction requirement is **GRANTED**.

The application is being forwarded to the examiner for rejoinder of the non-elected claims and examination thereof.

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

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE NW
WASHINGTON, DC 20005

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JUL 12 2005

OFFICE OF PETITIONS

In re Application of	:	
Birgit Kreller et al	:	
Application No. 10/049,864	:	DECISION GRANTING PETITION
Filed: February 19, 2002	:	UNDER 37 CFR 1.182
Attorney Docket No. 1454.1223	:	

This is a decision on the petition under 37 CFR 1.182, filed June 22, 2005, to change joint inventor Björn Schiemann's name to Birgit Schiemann.

The petition is **granted**.

Office records have been updated to reflect the above-noted inventor's change of name. A corrected filing receipt which reflects the name change accompanies this decision on petition.

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

This matter is being referred to Technology Center AU 2194.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
www.uspto.gov

3/22/07

Paper No. 20070322

Applicant : Neumann et al.
Appl No.: 10/049,867
Filed: July 2, 2002

DECISION DISMISSING PETITION UNDER *37 CFR 1.324*

This decision is in response to the petition filed January 27, 2005 in the above-identified application. Petitioner requests that inventorship be corrected in accordance with 37 C.F.R. 1.48(a). Because the subject application issued as U.S. Patent No. 6,853,943 on January 19, 2005, prior to the filing of the instant petition, it is being treated as a petition under 37 CFR 1.324.

Specifically, the petition requests that Heinz Peter Zeiträger and Till Immanuel Patzschke be added as co-inventors.

The petition is DISMISSED.

A grantable petition under 37 C.F.R. 1.324 to add a co-inventor requires the following submissions: (1) a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on their part; (2) a statement from all current inventors, either agreeing to the change of inventorship, or stating that they have no disagreement with regard to the requested change; (3) a statement from the assignee(s) of the patent agreeing to the change of inventorship in the patent, accompanied by a proper statement under 37 CFR 3.73(b) establishing ownership, unless a proper 37 CFR 3.73(b) statement is already in the file; and (4) the fee set forth in 37 CFR 1.20(b).

The petition filed January 27, 2005 does not contain item (2), a statement from the current inventors either agreeing to the requested change, or stating no disagreement with the change.

It is further noted that while the petition papers as a whole make it clear that Till Immanuel Patzschke is intended to be added as an inventor, the particular paper titled "Petition For Correction of Inventorship" does not specifically request Mr. Patzschke's addition.

In the absence of the above-required statement from the current inventors, the petition must be dismissed.

Marc Hoff
Supervisory Patent Examiner, Art Unit 2857
Technology Center 2800

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(F/K/A WORKMAN NYDEGGER & SEELEY)
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Paper No. 20070322

Applicant : Neumann et al.
Appl No.: 10/049,867
Filed: July 2, 2002

DECISION DISMISSING PETITION UNDER *37 CFR 1.324*

This decision is in response to the petition filed January 27, 2005 in the above-identified application. Petitioner requests that inventorship be corrected in accordance with 37 C.F.R. 1.48(a). Because the subject application issued as U.S. Patent No. 6,853,943 on January 19, 2005, prior to the filing of the instant petition, it is being treated as a petition under 37 CFR 1.324.

Specifically, the petition requests that Heinz Peter Zeiträger and Till Immanuel Patzschke be added as co-inventors.

The petition is DISMISSED.

A grantable petition under 37 C.F.R. 1.324 to add a co-inventor requires the following submissions: (1) a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on their part; (2) a statement from all current inventors, either agreeing to the change of inventorship, or stating that they have no disagreement with regard to the requested change; (3) a statement from the assignee(s) of the patent agreeing to the change of inventorship in the patent, accompanied by a proper statement under 37 CFR 3.73(b) establishing ownership, unless a proper 37 CFR 3.73(b) statement is already in the file; and (4) the fee set forth in 37 CFR 1.20(b).

The petition filed January 27, 2005 does not contain item (2), a statement from the current inventors either agreeing to the requested change, or stating no disagreement with the change.

It is further noted that while the petition papers as a whole make it clear that Till Immanuel Patzschke is intended to be added as an inventor, the particular paper titled "Petition For Correction of Inventorship" does not specifically request Mr. Patzschke's addition.

In the absence of the above-required statement from the current inventors, the petition must be dismissed.

Marc Hoff
Supervisory Patent Examiner, Art Unit 2857
Technology Center 2800

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1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

C2800 Bldg./Room Jeff

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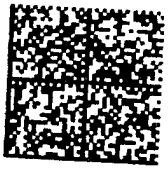

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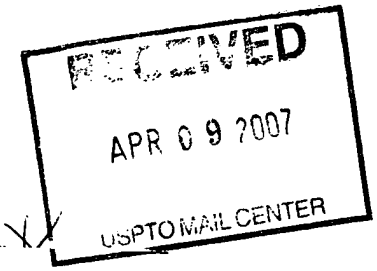

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101 FEDERAL STREET
BOSTON, MA 02110

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OFFICE OF PETITIONS

In re Application of :
Deckmyn et al. :
Application No. 10/049,868 :
Filed: June 4, 2002 : ON PETITION
Attorney Docket No. 50304/064001 :

This is a decision on the Petition to Correct Filing Receipt, filed March 31, 2005. The Petition is properly treated as a petition under 37 CFR 1.181.

Applicant files the instant petition to correct foreign priority data for the above-identified application. Applicant avers that European Application No. 00102032.0, filed February 2, 2000, and included in a Claim for Priority document filed May 2, 2002, was incorrectly annotated as having a filing date of February 2, 2002 by this Office. Applicant requests correction of Office records and issuance of a Corrected Filing Receipt reflecting the correct foreign priority data.

A review of Office records reveal that Office records have been corrected to indicate the filing date of European Application No. 00102032.0 as February 2, 2000. Further to this, Office records indicate that a Corrected Filing Receipt reflecting the filing date of European Application No. 00102032.0 as February 2, 2000, was mailed to Applicant May 24, 2005.

Accordingly, the petition is dismissed as moot.

A Replacement Filing Receipt indicating the filing date of European Application No. 00102032.0 as February 2, 2000, accompanies this Decision.

No fee has been charged and none is due.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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Cherskov & Flaynik
The Civic Opera Building
20 North Wacker Drive
Chicago, IL 60606

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AUG 09 2006

OFFICE OF PETITIONS

In re Application of :
Brian Keith Walker :
Application No. 10/049,896 :
Filed: February 12, 2002 :
Attorney Docket No. 0091/00406 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed April 24, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 22, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on November 23, 2005. A Notice of Abandonment was mailed on March 3, 2006.

Petitioner has filed an Amendment with the petition in response to the Office action. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 1744 for processing of the Amendment in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

Paper No. 12

MAILED

JUN 28 2005

Director's Office
Group 3700

In re Application of
ITOH ET AL.
Application No.: 10/049,903
Filed: February 20, 2002

DECISION ON PETITION

This is a decision on petitioner's request filed November 7, 2003, requesting withdrawal of the holding of abandonment of the above-identified application because the applicant did not receive the Office communication mailed on November 15, 2002 at the correspondence address of record.

The petition is granted.

In support of the request, petitioner has provided a showing of non-receipt of the Office action in accordance with MPEP 711.03(c)IA.

In view of the above, the Notice of Abandonment mailed September 30, 2003 is in error and is hereby vacated. The holding of abandonment is withdrawn.

The Office communication will be remailed and the shortened statutory period that was originally set forth in the Office communication shall be restarted to run from the mail date of the newly supplied Office action or notice.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700

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GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

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OFFICE OF PETITIONS

In re Patent No. 6942961 :
Issue Date: 09/13/2005 :
Application No. 10/049923 : LETTER
Filing or 371(c) Date: 04/24/2002 :
Attorney Docket No. MFA-14402/04 :

This is in response to the letter concerning acceptance of a fee deficiency submission under 37 CFR 1.28 filed on March 19, 2009.

The letter is not properly signed.

37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
(1) A patent practitioner of record appointed in compliance with § 1.32(b);
(2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
(3) An assignee as provided for under § 3.71(b) of this chapter; or
(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

The letter does not appear to be signed by a proper party in accordance with 37 CFR 1.33. Further, if the paper is to be signed by an assignee in accordance with 37 CFR 3.71(b), a statement in compliance with 37 CFR 3.73(b) must be filed that is signed by a party who is authorized to act on behalf of the assignee. No such statement has been filed.

Any papers filed in the USPTO, including a fee deficiency submission under 37 CFR 1.28, must be signed in accordance with 37 CFR 1.33(b). Accordingly, it is recommended that patentees submit a properly signed request under 37 CFR 1.28.

The Office acknowledges receipt of payment of $490.00.

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Attorney
Office of Petitions

23 MAR 2004

#6

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William Collard
COLLARD & ROE, P.C.
1077 Northern Boulevard
Roslyn, NY 11576

In re Application of	:	
Georg PLETZER et al.	:	
Application No.: 10/049,925	:	NOTIFICATION
PCT No.: PCT/EP00/06660	:	
International Filing Date: 13 July 2000	:	
Priority Date: 21 August 1999	:	
For: METHOD AND CONSTRUCTION MACHINE FOR PRODUCING GROUND SURFACES	:	

This application is before the PCT Legal Office for matters pertaining to 35 U.S.C. 371.

BACKGROUND

On 13 July 2000, applicants filed international application PCT/EP00/06660 claiming priority to an earlier application filed 21 August 1999. A copy of the international application was timely communicated to the United States Patent and Trademark Office by the International Bureau. A DEMAND for international preliminary examination, in which the United States was elected, was filed on 22 February 2001. Accordingly, the thirty month period for paying the basic national fee in the United States of America expired at midnight on 21 February 2002.

On 20 February 2002, applicants filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States under 35 U.S.C. 371, accompanied by, *inter alia*, the required basic national fee, a copy of the international application, and an English language translation of the international application.

On 29 May 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration under 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(e) were required.

On 26 July 2002, applicants filed an executed declaration and the required surcharge.

On 25 November 2002, the DO/EO/US mailed a NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 AND 1.495 (Form PCT/DO/EO/903) indicating a date under 35 U.S.C. 371 of 26 July 2002.

DISCUSSION

A review of the application reveals that the translation of the international application is defective. Specifically, the applicants have not provided a translation of the entire international application as filed because Figure 4 contains non-English text (see reference numeral 34).

CONCLUSION

For the reasons stated above, the NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 AND 1.495 (Form PCT/DO/EO/903) mailed on 25 November 2002 is hereby **VACATED**.

Applicants are hereby afforded TWO (2) MONTHS from the mailing date of this Notification to submit a complete translation on the international application. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Michael A. Neas
PCT Special Program Examiner
Office of PCT Legal Administration

Telephone: (703) 308-0954
Facsimile: (703) 308-6459

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

#16

02 DEC 2004

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William Collard
COLLARD & ROE, P.C.
1077 Northern Boulevard
Roslyn, NY 11576

In re Application of :
Georg PLETZER et al. :
Application No.: 10/049,925 : DECISION
PCT No.: PCT/EP00/06660 :
International Filing Date: 13 July 2000 :
Priority Date: 21 August 1999 :
For: METHOD AND CONSTRUCTION :
MACHINE FOR PRODUCING GROUND :
SURFACES :

This decision is responsive to applicants' PETITION filed 21 September 2004..

BACKGROUND

On 13 July 2000, applicants filed international application PCT/EP00/06660 claiming priority to an earlier application filed 21 August 1999. A copy of the international application was timely communicated to the United States Patent and Trademark Office by the International Bureau. A DEMAND for international preliminary examination, in which the United States was elected, was filed on 22 February 2001. Accordingly, the thirty month period for paying the basic national fee in the United States of America expired at midnight on 21 February 2002.

On 20 February 2002, applicants filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States under 35 U.S.C. 371, accompanied by, *inter alia*, the required basic national fee, a copy of the international application, and an English language translation of the international application.

On 29 May 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration under 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(e) were required.

On 26 July 2002, applicants filed an executed declaration and the required surcharge.

On 25 November 2002, the DO/EO/US mailed a NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 AND 1.495 (Form PCT/DO/EO/903) indicating a date under 35 U.S.C. 371 of 26 July 2002.

On 23 March 2004, the Office of PCT Legal Administration mailed a NOTIFICATION indicating that the NOTIFICATION OF ACCEPTANCE mailed 25 November 2002 was vacated because applicants had not provided a complete translation of the international application. The NOTIFICATION afforded applicants a two month response period and indicated that extensions of time were available under 37 CFR 1.136(a).

On 12 August 2004, applicants filed a status inquiry.

On 10 September 2004, the Office of PCT Legal Administration mailed a response to applicants' status inquiry which included a copy of the previously mailed NOTIFICATION requiring a complete translation.

On 21 September 2004, applicants filed the instant petition. The petition is accompanied by a drawing sheet containing Figure 4 with translated text. Applicants indicate that they did not receive the NOTIFICATION originally mailed 23 March 2004 until a copy was sent in response to their status inquiry. Applicants therefore request that the translated drawing sheet should be accepted without the need for an extension of time fee. Applicants' translated drawing sheet submission is further accompanied by the surcharge under 37 CFR 1.492(f) for providing the translation after thirty months from the priority date.

DISCUSSION

Applicants' petition does not provide conclusive evidence that the NOTIFICATION mailed 23 March 2004 was not received in counsel's office. Applicants provided a page from the USPTO's PAIR system which does not list the NOTIFICATION as support for their claim that the NOTIFICATION was not received. The PAIR page only indicates that the NOTIFICATION was not recorded in the USPTO's electronic database. The application file itself evidences mailing of the NOTIFICATION on 23 MARCH 2004 to counsel's address of record. Applicants' have not provided sufficient evidence to establish non-receipt of the NOTIFICATION. MPEP 711.03(c) describes the showing required to establish non-receipt of an Office communication.

CONCLUSION

For the reasons stated above, applicants' petition is **DISMISSED** with prejudice.

As authorized in the petition, counsel's deposit account will be a charged a four month extension of time fee such that the submission of the translated drawing sheet is timely.

The application is being returned to the DO/EO/US for further processing in accordance with this decision, including the mailing of a Notification Of Acceptance indicating a date under 35 U.S.C. 371 of 21 September 2004.

Michael A. Neas
PCT Special Program Examiner
Office of PCT Legal Administration

Telephone: 571-272-3289
Facsimile: 571-273-0419

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

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OFFICE OF PETITIONS

DOUGLAS H. PAULEY
PAULEY PETERSEN & ERICKSON
2800 WEST HIGGINS ROAD, SUITE 365
HOFFMAN ESTATES IL 60169

In re Application of :
Pletzer, et al. : DECISION UNDER 37 CFR 1.181
Application No. 10/049,925 :
Filed: September 21, 2004 :
For: METHOD AND CONSTRUCTION :
MACHINE FOR PRODUCING GROUND :
SURFACES :

This is a decision on the petition under 37 CFR 1.181 filed September 11, 2007, to revive the above-identified application.

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

The application was held abandoned for failure to timely submit a proper response to the non-final Office action mailed October 12, 2006. The non-final Office action set a three month statutory period of time for reply. Notice of Abandonment was mailed May 17, 2007.

Petitioners allege non-receipt of the non-final Office action as a result of the USPTO mailing the non-final Office action to the wrong correspondence address.

An improper change of correspondence address/revocation of previous power of attorney was submitted April 5, 2006 and improperly entered into the record April 18, 2006. As a result, the non-final Office action was improperly mailed to the wrong correspondence address.

This application is being forwarded to the Technology Center 3600 for re-mailing of the non-final Office action. The period of time for reply will be reset in the newly mailed non-final Office action.

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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MAIL

Paper No. 3

SEP 1 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Cesari & McKenna
30 Rowes Wharf
Boston MA 02210

In re Application of
Valerio Aisa
Application No. 10/049,985
Filed: February 20, 2002
For: **DEVICE, SYSTEM AND METHOD FOR MONITORING A HOUSEHOLD ELECTRIC APPLIANCE**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the Petition to Withdraw Holding of Abandonment pursuant to 37 C.F.R. §1.181, filed July 11, 2005. No fee is required.

This application is held abandoned for failure to timely file a response to the non-final Office action originally mailed on March 4, 2004 and remailed on April 19, 2004. A Notice of Abandonment was mailed November 10, 2004.

Petitioner asserts that the non-final Office action was not received due to an incorrect address. Petitioner states that a transmittal letter with a change of correspondence address was submitted on with the filing of the national stage request on February 20, 2002.

The petition fails to comply with MPEP §711.03(c) for a successful petition to withdraw the holding of abandonment. Petitioner failed to supply a copy of their docket record with explanation of said record and also failed to attest of a personal search of their file jacket and docket records for the Office action.

However, a review of the application file reveals (1) evidence that the original mailing of the non-final Office action was returned to the Office as undeliverable, (2) evidence that the Notice of Abandonment was also returned to the Office as undeliverable, (3) a Transmittal letter establishing a Correspondence address which is different than the address in which the non-final Office action and Notice of Abandonment was addressed, and (4) a copy of a preliminary amendment which had not been entered or considered by the examiner prior to the mailing of the original non-final Office action.

Given the file record reveals a transmittal letter requesting an address different than the one in which the non-final Office action of March 4, 2004 and April 19, 2004 was mailed, then there is sufficient evidence that the non-final Office action and Notice of Abandonment were mailed to an incorrect address and hence, there was an obvious irregularity in the mailing of the Office communication.

Thus, the application was not abandoned in fact. Accordingly, the holding of abandonment is withdrawn.

The petition is **GRANTED**.

Given that there is further evidence in the application of a preliminary amendment which was not entered or considered by the examiner, the non-final Office action mailed March 4, 2004 and re-mailed on April 19, 2004, is hereby vacated.

The application file will be forwarded to the Technology Center's technical support staff for entry of the change in correspondence address as well as applicant's preliminary amendment. From there the application will be forwarded to the examiner for action in appropriate turn.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

14 FEB 2003

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Manette Dennis, Esq.
OSTRAGER CHONG & FLAHERTY, LLP
825 Third Avenue, 30th Floor
New York, NY 10022-7519

In re Application of
ANDRE BEAULIEU, ET AL.
Appl. No.: 10/049,992
PCT No.: PCT/CA00/00953
Int. Filing Date: 21 August 2000
Priority Date: 20 August 1999
Agent's File Reference: BEAU 4 US
For: SOLID WOUND HEALING FORMULATIONS CONTAINING FIBRONECTIN

DECISION UNDER
37 CFR 1.181

This Office is in receipt of applicants' 07 February 2003 communication, which is being treated as a petition under 37 CFR 1.181 requesting that the copy of the Declaration filed with the present petition be accepted in lieu of the original purportedly filed on 13 November 2001. No petition fee is required. The petition is **DISMISSED.**

BACKGROUND

On 19 February 2002, applicants filed U.S. application 10/049,992 as a national stage entry of international application PCT/CA00/00953, which claimed priority to a U.S. application filed 21 August 1999. An unsigned declaration was filed with the application papers.

On 07 February 2003, applicants filed the present petition forwarding, inter alia, a purported copy of the declaration executed in accordance with 37 CFR 1.497 accompanied by a copy of the return receipt postcard indicating a receipt date of 07 October 2002. The copy of the postcard receipt does not specifically itemize a signed declaration.

DISCUSSION

MPEP at section 503 provides that:

> *"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."*

A review of the papers filed with the present petition reveals that the copy of the return

receipt postcard does not itemize the declaration. Consequently, the return receipt postcard filed with the present petition does not serve as *prima facie* evidence of receipt in the Office of the declaration.

CONCLUSION

Accordingly, applicants' petition to enter the copy of the declaration purportedly filed on 07 October 2002 in lieu of the original is **DISMISSED without prejudice.**

Any reconsideration on the merits of this petition must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181". No petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

JSF/LS:jf

Jeremy Fleming
Paralegal Specialist
PCT Legal Office

(703)308-6154

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 14 2005

OSTRAGER, CHONG, FLAHERTY & BROITMAN, PC
250 PARK AVENUE, SUITTE 825
NEW YORK, NY 10177

In re Application of	:
Andre Beaulieu et al	:
Serial No.: 10/049,992	: PETITION DECISION
Filed: October 7, 2002	:
Attorney Docket No.: BEAU 4 US	:

This is in response to the petition under 37 CFR 1.181, filed March 14, 2005, requesting withdrawal of abandonment based on timely filing of a reply.

A review of the file history shows that the examiner mailed an Office action to applicants on June 7, 2004, setting a three month shortened statutory period for reply. Upon apparent failure to receive a reply the application was held abandoned by Notice of Abandonment mailed January 11, 2005. Applicants state that a reply was submitted on December 9, 2004, with a three month extension of time request and fee, and include an Office date stamped postcard indicating Office receipt thereof. It appears that the reply was not timely correlated with the file, but was correlated after the Notice of Abandonment was mailed out. In view of applicants' timely reply the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner of further consideration.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON & FOERSTER, LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN, VA 22102

COPY MAILED

NOV 07 2007

OFFICE OF PETITIONS

In re Application of :
SIMAL, Jan :
Application No. 10/050,034 : DECISION ON PETITION
Filed: January 17, 2002 : TO WITHDRAW
Attorney Docket No. 449122020600 : 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 18, 2007.

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

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER, LLP** has been revoked by the assignee of the patent application on August 2, 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 the undersigned at 571-272-7253.

Monida A. Graves
Petitions Examiner
Office of Petitions

cc: **BELL BOYD & LLOYD, LLP**
P.O. BOX 1135
CHICAGO, IL 60690

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

FEB 14 2003

#8

HUNTON & WILLIAMS
1900 K STREET, NW
WASHINGTON, DC 20006

In re Application of	:	
Ebba A. Hansen	:	
Serial No.: 10/050,045	:	DECISION ON PETITION
Filed: January 17, 2002	:	
For: Absorbent Laminate	:	

This is in response to the petition applicant filed on January 21, 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 Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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NATH & ASSOCIATES
1030 15TH STREET NW
6TH FLOOR
WASHINGTON, DC 20005

MAIL

MAY 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
LAURENCE EDWARD LAFORGE :
Application No. 10/050,068 : DECISION ON REQUEST TO
Filed: January 17, 2002 : WITHDRAW FROM RECORD
For: ALGORITHMIC METHOD AND :
COMPUTER SYSTEM FOR SYNTHESIZING :
SELF-HEATING NETWORKS, BUS
STRUCTURES, AND CONNECTIVIES

This is a decision on the request to withdraw as attorney/agent of record filed on December 20, 2004.

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

All attorneys/agents associated with Customer Number 20529 have withdrawn.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, *the request is **granted.*** Future correspondence will be sent to the below address which has been provided by the withdrawing attorney(s).

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-7288

cc: LAURENCE EDWARD LAFORGE
3341 ADLER COURT
RENO NEVADA 89503

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. 7

WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY, NC 27512

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AUG 2 8 2002

OFFICE OF PETITIONS

In re Application of :
Kelvin Kar-Kin Au : LETTER GRANTING
Application No. 10/050,091 : FILING DATE
Filed: November 16, 2001 :
Attorney Docket No. 7000-107 :

This is a response to petition to correct filing date and request to correct filing receipt, filed on April 8, 2002 and again by facsimile transmission on July 11, 2002, which is being treated as a submission under 37 CFR 1.6(e) requesting that the above-identified application be accorded a filing date of November 16, 2001, rather than the presently accorded filing date of January 17, 2002.

The USPTO is aware that the USPS suspended Express Mail service to Washington, D.C. ZIP Codes 202XX through 205XX (e.g. 20231) from November 16, 2001, through November 29, 2001. On October 9, 2001, the USPTO published a notice in the Official Gazette providing guidance in the situation in which a post office refuses to accept the deposit of mail for delivery by Express Mail service.[1] The guidance set forth in that notice also applies if a post office refuses to accept the deposit of correspondence for delivery by Express Mail due to the suspension of the USPS's Express Mail service to Washington, D.C., ZIP Code 20231, as well as the situation in which correspondence is returned as undeliverable due to this suspension.

The guidance set forth in the above-mentioned Official Gazette notice is reproduced below:

> 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

[1] See United States Postal Service Interruption and Emergency, 1251 Off. Gaz. Pat. Office 55 (October 9, 2001).

> 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.

The submission filed by facsimile transmission on July 11, 2002, the original of which is located among the original application papers received on April 8, 2002, states that Jennifer Garrison, counsel's paralegal, attempted to deposit the application with the United States Postal Service (USPS) via Express Mail on Friday, November 16, 2001, but the USPS refused to accept the correspondence. Ms. Garrison then deposited the application in first class mail on Monday, November 19, 2001. Based on the submissions filed on April 8, 2002 and July 11, 2002, it is concluded that the present application would have been filed on November 16, 2001, if it were not for the designated interruption in the USPS.

Accordingly, the application will be accorded a filing date of November 16, 2001.

No petition fee is required.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 16, 2001.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Foley & Lardner
Suite 500
3000 K Street, NW
Washington, DC 20007

MAILED

NOV 25 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
Ronald Clifford Rescigno et al.
Application No. 10/050,115 : DECISION ON REQUEST
Filed: January 18, 2002 : FOR WITHDRAWAL OF
For: SYSTEM AND METHOD FOR : ATTORNEY
AUTOMATING A PURCHASE
APPROVAL PROCESS

This is a decision on the request filed on October 22, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition A) above.

There are currently 39 attorneys of record in this application, possibly added globally through the use of requester's Customer Number. Each attorney must sign or a clear indication of one signing on behalf of the others is required. If only the attorneys listed in the request are to have power withdrawn and the remaining attorneys are intended to remain having power of attorney for this case, this needs to be made clear in any supplemental request; otherwise the other attorneys, or a statement that all attorneys of record, would need to be added to the request.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868
Facsimile No.: (703) 605-0586

snm: 11/24/02

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AUG 17 2004

CALFEE, HALTER & GRISWOLD, LLP
1110 FIFTH THIRD CENTER
21 EAST STATE STREET
COLUMBUS OH 43215-4243

In re Application of
Randolph M. Howes.
Serial No.: 10/050,121
Filed: January 18, 2002
Attorney Docket No.: 29794/04001

: PETITION TO MAKE SPECIAL

This is in response to applicants' petition filed June 28, 2004, 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, X. Therefor the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number, 703-872-9306.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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

RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Yoshiki Nakamatsu	: DECISION ON REQUEST FOR
Patent Number	: 7620557	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/050,135	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/18/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1877** 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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ALEXANDRIA, VA 22313-1450
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SHINJYU GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON, DC 20036-2680

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NOV 19 2004

OFFICE OF PETITIONS

In re Patent No. 6,617,704 :
Issued: September 9, 2003 :
Application No. 10/050,136 : DECISION ON REQUEST FOR
Filed: January 18, 2002 : CERTIFICATE OF CORRECTION
Attorney Docket No. NS-US015153 :

This is a decision on the "REQUEST FOR CORRECTION UNDER 37 CFR § 1.323," filed September 17, 2003. This request is being treated as a request for certificate of correction. *See*, 35 USC 254 and 37 CFR 1.322.

The request for certificate of correction is hereby **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment ("PTA") of 80 days as requested by patentees.

The above-identified application matured into U.S. Patent No. 6,617,704 on September 9, 2003. The patent issued with a PTA of 0 days. The issue notification indicated a PTA of 80 days. Patentees allege an error occurred during the printing of the patent and that as a result, the patent issued with a PTA of 0 days.

A review of the application history confirms that the PTA of 0 days indicated on the patent is in error. At the time of the mailing of the Issue Notification, the application was entitled to a PTA of 80 days. The correct PTA of 80 days was shown on the PAIR system and on the Issue Notification. Due to printing error, the patent issued with an incorrect PTA. Accordingly, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 CFR § 1.322 is appropriate.

No fee is due in connection with this matter.

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 80 days subject to any disclaimers.

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

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

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314

AUG 26 2005

In re application of:
Gregory Kollyar
Application No. 10/050,146
Filed: January 25, 2002
For: **BEAM DELIVERY SYSTEM**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record and change of address filed on April 26, 2005.

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

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents with Customer Number (23364) in the request are withdrawn.

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 A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc:

Mr. Frank Caprio
Lanier Ford Shaver & Payne
200 West Side Square, Suite 5000
Huntsville, AL 35801

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 06

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

MAILED

JAN 03 2003

OFFICE OF DIRECTOR
GROUP

In re Application of:

Pottebaum, *et al.*

Application No. 10/050,185

Filed: January 18, 2002

For: FLUORINATED POTOPOLYMER COMPOSITION AND WAVEGUIDE DEVICE

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed October 07, 2002.

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

The request meets all the above requirements. The request was signed by the attorney of record, Matthew E. Connors, in the above identified application.

The request is APPROVED.

The application currently has no attorney of record.

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

Inquiries related to this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Mr. Chuck Xu
c/o DuPont Photonics Technologies, LLC
100 Fordham Road
Wilmington, MA 01887

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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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

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OFFICE OF PETITIONS

In re Application of Twardzik et al. :
Application No. 10/050,190 : Decision on Petition
Filing Date: January 15, 2002 :
Attorney Docket No. 120158.402C2 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 4, 2007, to revive the above-identified application.

The petition is **dismissed**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed November 4, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 5, 2005. A Notice of Abandonment was mailed on May 18, 2006.

Petitioner has submitted a statement that the delay was unintentional. Normally, a statement is sufficient to satisfy 37 CFR 1.137(b)(3). However, 37 CFR 1.137(b)(3) allows the Office to request further information regarding the "unintentional" delay. In this case, the facts raise a question as to whether the entire delay in filing a petition under 37 CFR 1.137(b) was unintentional. Where there is a question whether the 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).

Petitioner should file a request for reconsideration accompanied by the following information:

(1) an explanation for the failure to pay the issue fee and publication on or before February 4, 2005, and
(2) an explanation for the more than 2 years of delay in filing a petition to revive the application.

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

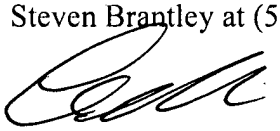
Further correspondence with respect to this matter should be addressed as follows:

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

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

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

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



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

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OFFICE OF PETITIONS

In re Application of Twardzik et al. :
Application No. 10/050,190 : Decision on Petition
Filing Date: January 15, 2002 :
Attorney Docket No. 120158.402C2 :

Corrected Decision:

This is a decision on the petition under 37 CFR 1.137(b), filed May 4, 2007, to revive the above-identified application.

The petition is **granted**.

The application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed November 4, 2004, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 5, 2005. A Notice of Abandonment was mailed on May 18, 2006.

The instant petition requests revival of the application. Petitioner has submitted the petition fee of $750. Petitioner has submitted a reply to the Notice of Allowance in the form of the issue fee and publication fee. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Patent Publications will be informed of the instant decision and the application will be issued as a patent in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OCT 28 2004

Director's Office
Group 3700

Paper No. 6

In re Application of
Eli Zhadanov *et al*
Application No. 10/050,191
Filed: January 16, 2002
For: Device for Introducing
Substances Into Water

: DECISION ON PETITION
:
:

The filing on January 13, 2003 of a duplicate copy of an amendment originally filed on August 8, 2002 is being treated as the filing of a petition under 37 CFR 1.181 to withdraw the examiner's holding that this application stands abandoned for failure to file a timely and reply to the Office letter dated April 10, 2002. There is no fee required for the petition.

The petition is granted.

The copy of the amendment submitted on January 13, 2003 has affixed thereto a request for a one month extension of time, and authorization to charge the fee therefor. The reply also has affixed thereto a 37 CFR 1.8(a) certificate of mailing dated August 10, 2002, a date within the period for set for filing a reply to the Office letter dated April 10, 2002, as extended,. Therefore, the reply was timely filed, and the application is not abandoned. See 37 CFR 1.8(b).

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application has been forwarded to the Head Supervisory Applications Examiner who has charged the extension of time fee of $55.00 to counsel's deposit account.. The date to which these papers are entitled is December 1, 2003, with a certificate of mailing date of November 26, 2003. Thereafter, the application will be forwarded to the examiner for immediate consideration and appropriate action.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Ilya Zborovsky
6 Schoolhouse Way
Dix Hills, NY 11746

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80 SOUTH 8TH ST
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of Alix et al. :
Application No. 10/050,210 : Decision on Petition
Filing Date: January 15, 2002 :
Attorney Docket No. 33155.8 :

This is a decision on the petition under 37 CFR 1.181, filed April 21, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

A non-final Office action was mailed December 14, 2004.

A reply and request for a three month extension of time were filed June 16, 2004 (Certificate of Mailing Date of June 14, 2004).

Unfortunately, due to a clerical error, the papers filed June 16, 2004, listed the application number as 10/052,210 rather than 10/050,210. As a result, the papers were matched with the incorrect file.

On or before March 22, 2006, the Office reviewed the file wrapper for the instant application and failed to find a reply to the December 14, 2004 Office action. A Notice of Abandonment was mailed on March 22, 2006.

The instant petition was filed April 21, 2006. Unfortunately, due to a clerical error, the petition listed the application number as 10/052,210 rather than 10/050,210. As a result, the petition was initially matched with the incorrect file.

Discussion:

At the discretion of the Office, a paper listing an incorrect application number may be considered timely and proper. The Office will accept papers as timely filed if the following criteria are met:

(1) The papers contained sufficient information for the Office to recognize they included an incorrect application number.

(2) The papers contained sufficient information for the Office to determine the correct application number.

The papers filed July 16, 2004, contained sufficient information for the Office to recognize they included an incorrect application number. The papers filed July 16, 2004, contained sufficient information for the Office to determine the correct application number. Therefore, the petition is granted.

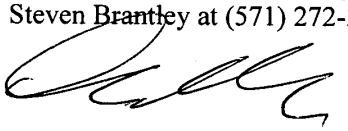
The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The papers filed on June 16, 2004, and the petition, have been associated with the correct application file.

The $510 payment for an extension of time was incorrectly applied to application no. 10/102,210. The fee has now been applied to the instant application.

Technology Center Art Unit 1764 will be informed of the instant decision and will enter the papers filed timely on June 16, 2004. Thereafter, the application will be further examined in due course.

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



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of Alix et al. :
Application No. 10/050,210 : Decision on Petition
Filing Date: January 15, 2002 :
Attorney Docket No. 33155.8 :

This is a decision on the petition under 37 CFR 1.181, filed April 21, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

Petitioner should note the correct Application Number for the instant application is 10/050,210 and not 10/052, 210.

Facts:

A final Office action was mailed September 15, 2006.

A reply and was filed December 20, 2006 (Certificate of Mailing Date of December 14, 2006).

Unfortunately, due to a clerical error, the papers filed December 20, 2006, listed the application number as 10/052,210 rather than 10/050,210. As a result, the papers were matched with the incorrect file.

On or before April 3, 2007, the Office reviewed the file wrapper for the instant application and failed to find a reply to the September 15, 2006 Office action. A Notice of Abandonment was mailed on April 3, 2007.

Discussion:

At the discretion of the Office, a paper listing an incorrect application number may be considered timely and proper. The Office will accept papers as timely filed if the following criteria are met:

(1) The papers contained sufficient information for the Office to recognize they included an incorrect application number.

(2) The papers contained sufficient information for the Office to determine the correct application number.

The papers filed December 20, 2006, contained sufficient information for the Office to recognize they included an incorrect application number. The papers filed July 16, 2004, contained sufficient information for the Office to determine the correct application number. Therefore, the petition is granted.

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

The papers filed on December 20, 2006, have been associated with the correct application file.

Technology Center Art Unit 1764 will be informed of the instant decision and will enter the papers filed timely on December 20, 2006. Thereafter, the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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FEB 17 2006

In re Application of: Dimitrov et al. :
Appl. No.: 10/050,236 : DECISION ON PETITION
Filed: 15 January 2002 :
For: Method for Forming a MR Reader with Reduced Shield Topography and Low Parasitic Resistance :

This is responsive to the petition filed on September 13, 2005 by which petitioners' request supervisory review of:

1) the restriction requirement between Group I and Group II rendered in paper No. 20040907 mailed September 8, 2004, traversed by petitioners on October 6, 2004, made final by the Examiner in paper No. 20041227 mailed December 30, 2004, and again traversed on March 24, 2005; and
2) the further restriction requirement rendered in paper No. 20050606 mailed June 14, 2005, traversed by petitioners on August 15, 2005. The Examiner in Advisory Action, paper No. 08202005 mailed August 29, 2005, reaffirmed both requirements. This petition is considered pursuant to 37 CFR 1.144 and no fee is required.

The petition is granted.

With respect to the first restriction requirement, careful review of the application prosecution history reveals that the Examiner grouped claims 1-18 into Group I, claims 1-8 and Group II, claims 9-18 stating that each group is drawn to a method of making a magnetoresistive reader. The Examiner relied on section 806.05(d) of the MPEP to justify that these two groups are distinct.

The Examiner states "Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the invention of Group II has separate utility within the process of making, such as the use of first and second photoresist layers, not required by Group I."

It is noted that the MPEP section 806.05(d) provides further guidance that "The examiner must show, by way of example, that one of the subcombinations has utility other than in the disclosed combination." Referring to Applicants' specification, the disclosed combination is a method best defined by the words of claim 9, which is defined by the Examiner as a subcombination. Nowhere in the specification is it found that the Group I claims, which are also defined by the Examiner as a subcombination, has other utility than in the disclosed combination. In other words, the specification never reveals that the steps of the inventive method could be practiced without the additional steps defined in claim 9 but not in claim 1. There is only one single

disclosed inventive method. MPEP section 806.03 states, "Where the claims of application define the same essential characteristics of a single disclosed embodiment [in this case, a method] of an invention, restriction should never be required. This is because the claims are not directed to distinct inventions; rather they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition." The same is true for claims 1-18. Each claim defines the same single disclosed method varying in breadth or scope of definition. For these reasons, the restriction requirement between Groups I and II is improper and will be withdrawn.

With respect to the second restriction requirement, the Examiner now adds two more groups. The Examiner in the final Office action states:

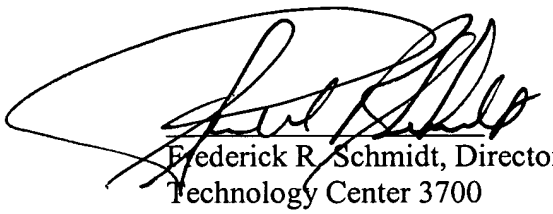
> 5. Restriction to one of the following inventions is required under 35 U.S.C. 121:
>
> II. Claims 2-5, drawn to a magnetoresistive reader with first and second photoresist layers, classified in class 29, subclass 603.07.
>
> III. Claims 21-32, drawn to forming a magnetoresistive reader without first and second photoresist layers, classified in class 29, subclass 603.12.
>
> The inventions are distinct, each from the other because of the following reasons:
>
> 6. Inventions of Groups II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the invention of Group III has separate utility such as removing the first and second photoresist layers, not required in Group II. Group II has separate utility in that the first and second photoresist layers are layers that are formed with the final product of the magnetoresistive reader. See MPEP § 806.05(d).

First of all, it is believed that the Examiner intended that claims 2-5 be drawn to the method of forming a magnetoresistive reader. In any event, the same analysis applied to claims 1-18 above, applies here. Each of these claims defines steps of the single disclosed method and not distinct subcombinations. For these reasons, the restriction requirement between Groups I and II is improper and will be withdrawn.

For the reasons outlined above, the restriction requirement promulgated and construed as being made final is not in accordance with proper Office procedure. Accordingly, the Office action rendered in paper No. 200506906 is hereby vacated.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3729 who will have the examiner promulgate an action on the merits of all presently pending claims not inconsistent with this Decision.

PETITION GRANTED



Frederick R. Schmidt, Director
Technology Center 3700

James A. Flight
HANLEY, FLIGHT & ZIMMERMAN, LLC
Suite 4220
20 North Wacker Drive
Chicago, Illinois 60606

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7801 COMPUTER AVENUE SOUTH
BLOOMINGTON, MN 55435

Mail Date: 04/21/2010

Applicant	: Dimitar V. Dimitrov	: DECISION ON REQUEST FOR
Patent Number	: 7587809	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/050,236	: 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 **1278** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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P.O. BOX 19928
ALEXANDRIA VA 22320

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Ben-Eli, David	:	
Application No. 10/050,237	:	
Filed: January 15, 2002	:	
Attorney Docket No. MP1448	:	

This is a decision on the petition under 37 CFR 1.181, filed May 11, 2006, requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

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

The above-identified application was held abandoned for failure to timely reply to the final Office action mailed August 23, 2005, which set a shortened statutory period for reply of three (3) months. A reply was due on or before November 23, 2005.

Petitioner states that during an Interview with Examiner Perez, it was agreed upon that the August 23, 2005 Office action was premature and a new office action was to be issued. After reviewing the Interview Summary submitted by the previous attorneys of record on November 23, 2005, as well as the Interview Summary entered by a Supervisory Patent Examiner on April 6, 2006, it is clear that the Examiner did agree to issue a new Office action that would replace the Final Office Action mailed August 23, 2005, as it was deemed premature.

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

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee and none has been charged.

This matter is being referred to Technology Center AU 2618 for examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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Paper No.

HOWISON & ARNOTT, L.L.P.
P.O. BOX 741715
Dallas, TX 75374-1715

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FEB 19 2005

Technology Center 2100

In re Application of:
Ram K. Ramamurthi
Application No. 10/050,247
Filed: February 15, 2002
For: SYSTEM AND METHOD FOR ORGANIZING, PRESERVING, SHARING AND UPDATING VOLUMINOUS PERSONAL MEMOIRS AND FOR DYNAMIC ACCOUNTING OF ASSETS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed May 24, 2004.

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

The signer of the petition, David C. Cain is not appointed as an attorney or agent of record. Therefor he is not authorized to act on behalf of the attorneys or record, nor can he effect a change of address.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

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

/JM/ James R. Matthews

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

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C/O FROST BROWN TODD
2200 PNC CENTER
201 EAST FIFTH STREET
CINCINNATI, OH 45202

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OFFICE OF PETITIONS

In re Application of :
Nandagopal Mysore Jayaram et al :
Application No. 10/050,273 : ON PETITION
Filed: January 16, 2002 :
Attorney Docket No. 1160215-0501356 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 27, 2005, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed June 29, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 30, 2005.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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LEE, HONG, DEGERMAN, KANG & SCHMADEKA
660 S. FIGUEROA STREET
Suite 2300
LOS ANGELES CA 90017

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OFFICE OF PETITIONS

In re Application Of:	:	
Yoon Seok Yang	:	
Application No. 10/050,274	:	DECISION ON PETITION UNDER
Filed: January 16, 2002	:	37 C.F.R. § 1.47(B)
Attorney Docket No. 2080-3-66	:	
Title: APPARATUS FOR	:	
ENCRYPTING/DECRYPTING REAL-	:	
TIME INPUT STREAM	:	

This is in response to the petition under 37 C.F.R. § 1.47(b)[1], filed on July 3, 2007.

---

1 A grantable petition under 37 C.F.R. §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that either:
a) a copy of the application was sent or given to each of the non-signing inventors for review and proof that each of the non-signing inventors refused to sign, or;
b) proof that diligent efforts have been made to locate the non-signing inventor;
(5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(6) proof of irreparable damage, and;
(7) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 C.F.R. §1.63.

The above-identified application was filed on January 16, 2002, with a declaration that had been executed by the sole inventor. With the present petition, Petitioner has indicated that the citizenship of the inventor was not listed on this declaration.

With the present petition, Petitioner has submitted a statement of facts, a copy of an envelope, a declaration that has been executed by the assignee, and the last-known address of the non-signing inventor. The surcharge associated with the late submission of a declaration and the petition fee have been charged to Petitioner's Deposit Account, as authorized in the petition.

Petitioner has met requirements (1) - (3) and (5) - (7) of 37 C.F.R. § 1.47(b).

Regarding the **fourth requirement** of Rule § 1.47(b), Petitioner has asserted that the inventor is "unavailable." Petitioner has further asserted that "the Applicant made a diligent effort to reach the latter (sic) inventor…" however such has not been shown by Petitioner to be the case.

Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventor. *As petitioner has set forth that the non-signing joint inventor cannot be found or reached, petitioner is required to establish that a diligent effort was made to locate the non-signing inventor.* There is no indication that a search was performed for Mr. Yang. The Applicant merely mailed a letter to the inventor, and the letter was returned by the Post Office. There does not appear to be any indication that the Rule 47 applicant attempted to verify the address of the non-signing inventor or to determine his forwarding address, and to send the complete application papers to that address for consideration by the inventor.[2] Petitioner must provide a showing detailing the attempts that were made to obtain a forwarding address or to locate the non-signing inventor by means such as through E-mail, telephone, or the Internet. If it is then averred that such attempts failed, then applicant will have provided the necessary proof required under 37 C.F.R. § 1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details.

---

2 See MPEP 409.03(d).

Pursuant to the discussion above, the present showing is incomplete. It follows that this petition under 37 C.F.R. § 1.47(b) must be **DISMISSED.**

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. § 1.47(b)." This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[3], hand-delivery[4], or facsimile[5]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[6].

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.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[7]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

---

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.
6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
7 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

BARNES & THORNBURG
11 South Meridian Street
Indianapolis, IN 46204

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FEB 18 2005

OFFICE OF PETITIONS

In re Application of :
Richard B. Mailman, et. al. :
Application No. 10/050,289 : ON PETITION
Filed: January 16, 2002 :
Attorney Docket No. 3220-69768 :

This is a decision on the petition under 37 CFR 1.182, filed November 22, 2004, to change the order of the inventor names.

The petition is **GRANTED**.

The order of inventor names will be changed as follows:

1. Richard B. Mailman

2. David E. Nichols

3. Xuemei Huang

The above-identified application is being referred to Technology Center Art Unit 1617, for review of the amendment filed November 8, 2004.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

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

Enclosure: Corrected Filing Receipt

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)
6,696,565	2004-02-24	10/050,292	2002-01-16	3220-69771

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	/Bradford G. Addison/	Date (YYYY-MM-DD)	2008-04-17
Name	Bradford G. Addison	Registration Number	41486

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6696565
Issue Date: February 24,2004
Application No. 10050292
Filed: January 16,2002
Attorney Docket No. 3220-69771

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

This is a decision on the electronic petition, filed April 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 April 17,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

Paper No. 7

DOYLE B. JOHNSON
CROSBY, HEAFEY, ROACH & MAY
SUITE 2000
TWO EMBARCADERO CENTER
SAN FRANCISCO, CA 94111

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SEP 15 2003

OFFICE OF PETITIONS

In re Application of
Kazuhiro Kita et al
Application No. 10/050,328
Filed: January 15, 2002
Attorney Docket No. 21778.05000

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
: AND UNDER 37 CFR 1.55(c)

This is a decision on the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed June 24, 2003, and supplemented by facsimile transmission on September 5, 2003 and on September 8, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed PCT application, and under 35 U.S.C. § 119 for the benefit of a prior-filed foreign application.

The petitions are **GRANTED**.

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

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
(2) the surcharge set forth in § 1.17(t); and

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

> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on January 15, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed application has been included in an amendment to the first sentence of the specification following the title, and an application data sheet, as required by 37 CFR 1.78(a)(2)(iii).

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

As to the benefit claim under 37 CFR 1.55(c):

A petition for acceptance of a claim for foreign priority under 37 CFR 1.55(c) is only applicable to those applications filed on or after November 29, 2000. Further, the nonprovisional application must be filed within 12 months of the filing date of the foreign application. In addition, a petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) must be accompanied by:

> **(1)** the claim under 35 U.S.C. §119(a)-(d) to the prior foreign application, unless previously submitted;[2]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

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[2] The claim must identify in the oath or declaration the foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by specifying the application number, country, and the filing date. *Note* also 37 CFR 1.63(c)(2).

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application.

Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified pending nonprovisional application was filed on January 15, 2002, which is after November 29, 2000 and intermediate prior-filed PCT Application No. PCT/JP01/04082 was filed on May 16, 2001, within 12 months of foreign Application No. 2000-143822, filed May 16, 2000 (the filing date of the foreign application to which benefit is now being claimed). On September 8, 2003, an application data sheet was received which identifies the foreign application for which priority is claimed by application number, country and filing date. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a) through (d) is granted.

A corrected Filing Receipt, which includes the priority claim to the prior-filed PCT application, and the foreign priority claim, accompanies this decision on petition.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

This application is being forwarded to Technology Center Art Unit 2153 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to prior-filed PCT Application No. PCT/JP01/04082, filed May 16, 2001, and for consideration of the foreign priority claim under 35 U.S.C. § 119 for the benefit of Foreign Application No. 2000-143822, filed May 16, 2000.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOURTEENTH FLOOR
IRVINE, CA 92614

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FEB 25 2004

OFFICE OF PETITIONS

In re Application of :
Mark E. Tuttle et al :
Application No. 10/050,339 : ON PETITION
Filed: January 15, 2002 :
Attorney Docket No. MICRON.248A :

This is a decision on the petition, filed January 6, 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 24, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Eschweiler & Associates
National City Bank Building
629 Euclid Avenue, Suite 1210
Cleveland, OH 44114

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JAN 0 6 2003

OFFICE OF PETITIONS

In re Application of :
Feng Pan et al. :
Application No. 10/050,342 : ON PETITION
Filed: January 16, 2002 :
Attorney Docket No. AMDP542US :

This is a decision on the petition under 37 CFR 1.137(b), filed December 2, 2002, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before September 30, 2002. A Notice of Abandonment was mailed on November 12, 2002.

This application is being forwarded to the Publishing Division.

Telephone inquiries regarding this decision may be directed to the undersigned at (703) 308-6911.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

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AUG 2 0 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WILLIAM P. SMITH
223 FOXBURG DRIVE
PITTSBURGH, PA 15205

In re Application of :
Gregory Arreazola, Jr., et al. :
Application No. 10/050,345 :
Filed: January 18, 2002 :
For: COMBINATION INSULATED CONTAINER AND ENTERTAINMENT CENTER :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on July 8, 2002.

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

The request is **GRANTED.**

All future communications from the Office will be directed to the 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 for

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

cc: Gregory Arreazola, Jr.
419 Fairview Avenue
Madera, CA 93637

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 052504

WELLS ST. JOHN P.S.
601 W. First Avenue, Suite 1300
Spokane, WA 99201

JUN 10 2004

In re Application of:
SANDHU *et al.*
Serial No.: 10/050,347
Filed: January 15, 2002
Attorney Docket No.: **MI22-1897**

DECISION ON PETITION

This is a decision on the petition filed December 08, 2003 to accept a copy of a Request for Continued Examination (RCE), in place of the apparently lost original RCE, as timely, and to withdraw the holding of abandonment in the above identified application under 37 C.F.R. §1.181. No fee is required.

The petition is **GRANTED.**

A Notice of Allowance and Issue Fee Due (Notice) was mailed on July 02, 2002. Although no Notice of Abandonment has been mailed, the application would have gone abandoned, by operation of law, as midnight on October 02, 2002.

The petitioner asserts that on August 27, 2002, an RCE, with an Information Disclosure Statement (IDS) were filed. To support this assertion, the petitioner has provided a copy of the RCE, the IDS, a copy of a postcard receipt bearing a date stamp of August 27, 2002, and a copy of the Express Mail Label with a "date in" of August 27, 2002.

A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located. However, 37 C.F.R. § 1.10 (e) sets forth procedures for filing a petition to the Commissioner to accept correspondence as being filed in the Office on the United States Postal Service (USPS) deposit date, provided that:

> *(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;*
>
> *(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";*
>
> *(3) The petition includes a copy of the originally deposited paper(s) or fee(s)*

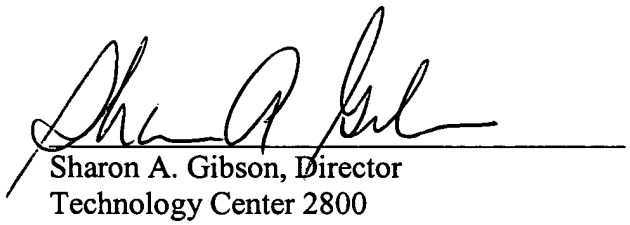
that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The petition meets the above stated requirements. Accordingly, the petition is granted. The copy of the RCE and IDS submitted with the petition are accepted as being timely filed since the original was apparently lost.

The application file is being forwarded to the Technology Center 2800 support staff for processing the RCE. From there, the application will be forwarded to the examiner for taking appropriate action.

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



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

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Paper No. 052504

WELLS ST. JOHN P.S.
601 W. First Avenue, Suite 1300
Spokane, WA 99201

JUN 10 2004

In re Application of:
SANDHU *et al.*
Serial No.: 10/050,347
Filed: January 15, 2002
Attorney Docket No.: **MI22-1897**

DECISION ON PETITION

This is a decision on the petition filed December 08, 2003 to accept a copy of a Request for Continued Examination (RCE), in place of the apparently lost original RCE, as timely, and to withdraw the holding of abandonment in the above identified application under 37 C.F.R. §1.181. No fee is required.

The petition is **GRANTED**.

A Notice of Allowance and Issue Fee Due (Notice) was mailed on July 02, 2002. Although no Notice of Abandonment has been mailed, the application would have gone abandoned, by operation of law, as midnight on October 02, 2002.

The petitioner asserts that on August 27, 2002, an RCE, with an Information Disclosure Statement (IDS) were filed. To support this assertion, the petitioner has provided a copy of the RCE, the IDS, a copy of a postcard receipt bearing a date stamp of August 27, 2002, and a copy of the Express Mail Label with a "date in" of August 27, 2002.

A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located. However, 37 C.F.R. § 1.10 (e) sets forth procedures for filing a petition to the Commissioner to accept correspondence as being filed in the Office on the United States Postal Service (USPS) deposit date, provided that:

> *(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;*
>
> *(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";*
>
> *(3) The petition includes a copy of the originally deposited paper(s) or fee(s)*

that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The petition meets the above stated requirements. Accordingly, the petition is granted. The copy of the RCE and IDS submitted with the petition are accepted as being timely filed since the original was apparently lost.

The application file is being forwarded to the Technology Center 2800 support staff for processing the RCE. From there, the application will be forwarded to the examiner for taking appropriate action.

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

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

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Paper No. 17

WELLS ST. JOHN P.S.
601 W. First Avenue, Suite 1300
Spokane, WA 99201

MAR 26 2004

In re Application of:
SANDHU *et al.*
Serial No.: 10/050,348
Filed: January 15, 2002
Attorney Docket No.: **MI22-1898**

DECISION

This is a decision on the petition filed August 12, 2003. The petition has been treated as a petition to withdraw the holding of abandonment in the above identified application under 37 C.F.R. §1.181. No fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely pay the required issue fee in response to a Notice of Allowance and Issue Fee Due (Notice) mailed on February 11, 2003. A Notice of Abandonment was mailed on August 04, 2003.

The petitioner asserts that on May 07, 2003, a Request for Continued Examination (RCE), with an Information Disclosure Statement (IDS) and a Preliminary Amendment were filed. To support this assertion, the petitioner has provided a copy of the RCE.

A review of the application file reveals the above noted RCE, IDS and Preliminary Amendment were not matched with the application file wrapper at the time of mailing of the Notice of Abandonment; however, it has since been located and matched with the file wrapper.

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 processing the RCE. From there, the application will be forwarded to the examiner for taking appropriate action.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUALCOMM, INC.
Attn: Patent Department
5775 Morehouse Drive
San Diego, CA 92121-1714

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MAY 23 2006

OFFICE OF PETITIONS

In re Application of:
CHANG, et al.
Application No.: 10/050,378
Filed: January 15, 2002
Atty's Docket No.: 020077
Title: VOICE RECOGNITION SYSTEM METHOD AND APPARATUS

DECISION ON PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed February 03, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response in a timely manner to the Notice Of Allowability (Form PTOL-37) mailed July 26, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on October 26, 2005.

On February 03, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay;[1] and (3) the required reply in the form of revised drawings responsive to the Notice Of Allowability. Accordingly, the response to the Notice Of Allowability mailed July 26, 2005 is accepted as being unintentionally delayed.

The application is being referred to the Office Of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3296.

Richard M. Ross
Attorney Advisor

[1] The statement in the petition for revival that "this application became abandoned unintentional" is 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." Applicant **must** notify this Office if this is **not** a correct interpretation of this statement.

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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Grant A. Johnson
IBM Corporation, Dept. 917
3605 Highway 52 North
Rochester, MN 55901-7829

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OCT 21 2008

OFFICE OF PETITIONS

In re Application of	:	
Brian John Cragun, et. al.	:	
Application No. 10/050,385	:	DECISION ON PETITION
Filed: January 16, 2002	:	
Attorney Docket No. ROC920010255US1	:	

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

In accordance with 37 CFR 1.34(a), the signature of Daniel Fishman 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.

The application became abandoned for failure to file a timely reply to the Notice of Allowance and Fee(s) Due/Notice of Allowability mailed on June 15, 2007. A Notice of Abandonment was mailed on October 11, 2007.

The petition is **dismissed**.

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

The Office acknowledges receipt of $1,540 for treatment of the instant petition, $1,440 for payment of the issue fee and $300 for payment of the publication fee submitted on November 15, 2007. However, the Notice of Allowability mailed on June 15, 2007 required petitioner to file corrected drawings including any changes required by the Examiner's amendment/comment or in the Office action of January 25, 2007. Therefore, Petitioner must provide corrected drawings before revival can occur.

The Power of Attorney and Correspondence Address Indication Form filed on November 15, 2007 has not been accepted. The assignment recorded at reel/frame 019649/0875 shows that International Business Machines Corporation and IBM Printing Systems, Inc. both assigned rights to Infoprint Solutions Company, LLC. However, the Statement under 37 CFR 3.73(b) only shows that International Business Machines assigned rights to IBM Printing Systems, Inc. Additionally, petitioner must show how IBM Printing Systems, Inc. became involved in the application, by providing a proper chain of title between International Business Machines and IBM Printing Systems, Inc.

A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence will be mailed to the address of record until otherwise instructed.

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) is 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

cc: Daniel Fishman
1526 Spruce Street, Suite 302
Boulder, CO 80302

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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DUFT BORNSEN & FISHMAN, LLP
1526 SPRUCE STREET
SUITE 302
BOULDER, CO 80302

MAILED

JUN 10 2009

OFFICE OF PETITIONS

In re Application of :
Brian John Cragun, et. al. :
Application No. 10/050,385 : ON PETITION
Filed: January 16, 2002 :
Attorney Docket No. ROC920010255US1 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on December 22, 2008, to revive the above-identified application.

In response to the decision mailed October 21, 2008, petitioner submits the present renewed petition along with a Statement under 37 CFR 3.73(b) filed on December 22, 2008.

Petitioner argues that "Examiner Popovici indicated that the drawings submitted on 4/25/07 were acceptable, thus the Petitioner has satisfied the corrected drawing requirement".

A review of the record shows that the Notice of Allowability mailed June 15, 2007 indicated that corrected drawings (as "replacement sheets") must be submitted, including changes required by the Examiner's Amendment/Comment or in the Office action of Paper No./Mail Date January 25, 2007. However, in the detailed action of the Notice of Allowability, the drawings filed on April 25, 2007 were accepted.

Petitioner should note that the changes made in the drawings filed on April 25, 2007, (i.e. inserting "G" in Figure 2e and "F" in Figure 2f), are acceptable. However, petitioner must submit corrected drawings with Identifying indica such as the application number (see 37 CFR 1.84c) written on the drawings on the front of each sheet. Additionally, replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d) (Please see Notice of Allowability dated 6/15/07 item # 5(b) and the sentence in bold below it).

In view of the above, petitioner's argument has been considered but the result is the same. The petition is again **dismissed**.

Since petitioner complied with the requirements of 37 CFR 3.73(b) on December 22, 2008, the Power of Attorney and Correspondence Address Indication Form filed on November 15, 2007 has been accepted and made of record.

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) is 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 35 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.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/050,385	01/16/2002	Brian John Cragun	ROC920010255US1

CONFIRMATION NO. 6187

50441
DUFT BORNSEN & FISHMAN, LLP
1526 SPRUCE STREET
SUITE 302
BOULDER, CO 80302

POA ACCEPTANCE LETTER

OC00000036279687

Date Mailed: 06/03/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/15/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amsmith/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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DUFT BORNSEN & FISHMAN, LLP
1526 SPRUCE STREET
SUITE 302
BOULDER, CO 80302

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JUN 24 2009

OFFICE OF PETITIONS

In re Application of :
Brian John Cragun, et. al. :
Application No. 10/050,385 : ON PETITION
Filed: January 16, 2002 :
Attorney Docket No. ROC920010255US1 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on June 18, 2009, to revive the above-identified application.

In response to the petition decision mailed June 10, 2009, petitioner submits the present renewed petition along with two sheets of replacement drawings containing Figures 2E and 2F filed on June 18, 2009.

The renewed petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of two sheets of replacement drawings and $1,440 for payment of the issue fee and $300 for payment of the publication fee paid on November 15, 2007; (2) the petition fee of $1,540 submitted on November 15, 2007; and (3) a proper statement of unintentional delay. Therefore, the petition is GRANTED.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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

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JUN 0 4 2002

Office of the Director
Group 3600

Paper No. 6

John H. Dodds
1707 N St. N.W.
Washington, DC 20036

In re application of : **DECISION ON PETITION**
Marvin Byrd : **TO MAKE SPECIAL**
Application No. 10/050,393 :
Filed: January 16, 2002 :
For: COMPANION RIDER WHEEL CHAIR :

This is a decision on the petition under 37 C.F.R §1.102(d) to make the above-identified application special that was filed on January 16, 2002. The delay in treating this petition is sincerely regretted.

The petition requests that the above-identified application be made special for the reason that a search of the prior art was made and the value the invention provides in terms of health and safety.

MPEP 708.02 provides for numerous grounds under which an application may be made special. It is not clear as to which ground the applicant is attempting to satisfy in order to have the application be made special. None of these grounds, however, can be met simply by having a prior art search done, or by including a statement that the invention provides a benefit to health or safety.

In view of the above deficiencies, the petition is **DISMISSED**. It is suggested that applicant review MPEP 708.02 to see if applicant can meet any of the criteria necessary for granting special status and to resubmit the necessary fees/evidence in a renewed petition if special status is still desired.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

snm/snm: 6/2/02

#11

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 16 2004

MAILED

MAR 16 2004

OFFICE OF THE DIRECTOR
TC 3600

John H. Dodds
1707 N St., N.W.
Washington DC 20036

In re Application of
Marvin Byrd
Application No. 10/050,393
Filed: January 16, 2002
For: COMPANION RIDER WHEEL CHAIR

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on January 23, 2004.

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

☒ Postcard receipt being dated April 9, 2003.

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____. and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

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

/mjz: 3/5/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

#10
DW

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

MAR 16 2004

MAILED

MAR 16 2004

OFFICE OF THE DIRECTOR
TC 3600

John H. Dodds
1707 N St., N.W.
Washington DC 20036

In re Application of:
Marvin Byrd
Serial No. 10/050,393
Filed: January 16, 2002
For: COMPANION RIDER WHEEL CHAIR

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S HEALTH)

This is a decision on the petition filed January 23, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section III: Applicant's Health. There is no fee for this petition.

A grantable petition to make an application special under 37 C.F.R. 1.102(c), MPEP 708.02, Section III requires evidence that the state of health of the applicant is such that he might not be able to assist in the prosecution of the application if it were to run it's normal course.

The petition includes a medical certificate from George Washington University Hospital attesting to the fact that Marvin Byrd was hospitalized for treatment of a serious medical condition between March 19, 2003 and April 3, 2003. The medical certificate further states that Mr. Byrd would require at least six more weeks of treatment at a skilled nursing facility. However, the certificate merely documents a past medical condition. The petitioner has not provided evidence establishing that applicant's current medical condition would result in the inability of the applicant to assist in prosecution of the application if it were to run its normal course.

For the above stated reasons, the petition is **DISMISSED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/mjz: 3/15/04

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

#8

MAY 19 2003

MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DRIVE
SUITE 500
SAN DIEGO CA 92130-2332

In re Application of	:
Gregory R. Mundy et al	:
Serial No.: 10/050,425	: PETITION TO MAKE SPECIAL
Filed: January 15, 2002	:
Attorney Docket No.: 432722002601	:

This is in response to applicants' petition filed January 15, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in acting on this petition is regretted.

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

The examiner has recently acted on this application and reply by applicants is awaited..

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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DEC 21 2005

OFFICE OF PETITIONS

In re Application of :
Borden et al. :
Application No. 10/050,477 :
Filed: January 18, 2002 :
Attorney Docket No. 57434US002 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed August 11, 2004, to withdraw the holding of abandonment for the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience to petitioners.

This application was held abandoned for failure to respond timely to the nonfinal Office Action mailed on January 30, 2004, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned and a Notice of Abandonment was mailed on August 3, 2004.

In the present petition, petitioners assert that they filed a timely reply in response to the nonfinal Office action via facsimile transmission on March 23, 2004. A copy of the response in the form of an amendment with a certificate of facsimile dated March 23, 2004, accompanies the petition.

Upon a review of the record, the Office has located the amendment filed on March 23, 2004, in response to the nonfinal Office action. Accordingly, the petition is **granted**. The Notice of Abandonment was mailed in error and it is hereby withdrawn. The application is restored to pending status in view of the fact that a response was timely filed and received on March 23, 2004.

The matter is being referred to the Technology Center Art Unit 3752 for a review of the amendment submitted on March 23, 2004.

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

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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MAY 24 2007

OFFICE OF PETITIONS

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA, GA 30339-5948

In re Patent No. 6,855,307	:	
Issued: February 15, 2005	:	
Application No. 10/050,491	:	NOTICE
Filed: January 16, 2002	:	
Patentee: Tommy J. Shane, et al.	:	

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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WHYTE HIRSCHBOECK DUDEK S.C.
555 EAST WELLS STREET
SUITE 1900
MILWAUKEE, WI 53202

COPY MAILED

FEB 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Teck Kheng Lee :
Application No. 10/050,507 : ON PETITION
Filed: January 16, 2002 :
Attorney Docket No. MTI-31607 :

This is a decision on the petition, filed February 8, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2813 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions
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

Date : February 9, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Teck Kheng Lee
Application No. : 10/050,507
Filed : January 16, 2002

The above-identified application has been assigned Patent No. 6,858,940 and an issue date of February 22, 2005.

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

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of February 22, 2005:

"All reference to Patent No. 6,858,940 to Teck Kheng Lee of Singapore, Singapore for ELIMINATION OF RDL USING TAPE BASE FLIP CHIP ON FLEX FOR DIE STACKING appearing in the Official Gazette of February 22, 2005 should be deleted since no patent was granted."

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

cc: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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October 30, 2007

Auto ASP, Inc.
3350 Airport Road
Ogden, UT 84405

Patent No.: 6,945,558 B2
Application No.: 10/050,511
Inventor(s): Michael Hall, et al.
Issued: September 20, 2005
Title: **INFLATABLE CURTAIN SUPPORT DEVICE**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 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 matter, 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.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MADSON & METCALF, P.C.
ATTORNEYS AT LAW
900 GATEWAY TOWER WEST
15 WEST SOUTH TEMPLE
SALT LAKE CITY UT 84101

COPY MAILED

DEC 13 2007

OFFICE OF PETITIONS

In re Patent No. 6945558 :
Issue Date: 09/20/2005 :
Application No. 10/050511 : ON PETITION
Filed: 01/16/2002 :
Attorney Docket No. 14161 :

This is a decision on the petition filed November 8, 2007, 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**.

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 processing fee of $130.00 will be charged to counsel's deposit account, as authorized in the papers filed November 8, 2007.

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.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

COPY MAILED

MAR 2 8 2007

OFFICE OF PETITIONS

In re Patent No. 6,962,602 :
Issue Date: November 8, 2005 :
Application No. 10/050,524 : ON PETITION
Filed: January 18, 2002 :
Attorney Docket No. S63.2N-12020-US03 :

This is a decision on the petition filed June 5, 2006, 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**.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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)
6,674,639	2004-01-06	10/050,554	2002-01-18	SUND 265

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

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

Small Entity

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Steven M. Rabin/	Date (YYYY-MM-DD)	2008-03-06
Name	Steven M. Rabin	Registration Number	29102

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
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In re Patent No. 6674639
Issue Date: January 6,2004
Application No. 10050554
Filed: January 18,2002
Attorney Docket No. SUND 265

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

This is a decision on the electronic petition, filed March 6,2008 ,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 6,2008 . 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

Paper No. 4

MYERS BIGEL SIBLEY & SAJOVEC
P.O. BOX 37428
Raleigh, NC 27627

MAILED

MAY 0 6 2004

Technology Center 2100

In re Application of:
Anders LUNDH, et al.
Application No. 10/050,628
Filed: January 16, 2002
For: METHODS, SYSTEMS AND COMPUTER PROGRAM PRODUCTS FOR ACCESSING DESCRIPTIVE INFORMATION ASSOCIATED WITH A TDMA/GSM SWITCH

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed February 13, 2004.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on April 8, 2004. The Power Of Attorney revoked all prior Powers Of Attorney and appointed John Han, et al. as the attorney(s) of record of the instant application. The Power of Attorney of April 8, 2004 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by John Han, et al.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

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

cc: ERICSSON, INC.
6300 Legacy Drive
M/S EVR C11
Plano, TX 75024

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUN 0 4 2004

TECHNOLOGY CENTER 2100

Paper No. 6

John Han
Associate General Counsel – Intellectual Property
Ericsson Inc.
MS/EVW2-C-2
6300 Legacy Drive
Plano, TX 75024

In re Application of:
Lundh et al.
Application No. 10/050,628
Filed: January16, 2002
For: METHODS, SYSTEMS AND COMPUTER PROGRAM PRODUCTS FOR ACCESSING DESCRIPTIVE INFORMATION ASSOCIATED WITH A TDMA/GSM SWITCH

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation under 37 CFR filed May 19, 2004.

A revocation And Substitution of Power of Attorney Under 37 CFR 1.136 was filed on April 8, 2004. The request is filed by David K. Purks associated with all attorneys associated with customer number 20792. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Ericsson Inc., customer number 27045 as the attorneys of record of the instant application. The Power Of Attorney of April 8, 2004 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Ericsson Inc.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

A courtesy copy of this decision is being provided to the requesting attorney.

James R. Matthews

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

cc: David K. Purks
MYERS BIGEL SIBLEY & SAJOVEC
P.O. Box 37428
Raleigh, NC 27627

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JIANHUA FAN
APT. C-2
5800 MAUDINA AVENUE
NASHVILLE, TN 37209

COPY MAILED
OCT 16 2006
OFFICE OF PETITIONS

In re Application of	:	
Jianhua Fan	:	
Application No. 10/050,661	:	DECISION ON PETITION
Filed: January 16, 2002	:	UNDER 37 CFR 1.137(b)
For: EASY MOP	:	

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

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency 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(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). The instant petition lacks item(s) (1) and (2) above.

As to item (1), petitioner has submitted $390 for the filing fee for the Request for Continued Examination under 37 CFR 1.114, whereas, the correct amount is currently $395. Accordingly, a

balance due of **$5** is required to complete the filing fee for the Request for Continued Examination.

As to item (2) above, the rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay. In this instance, the fee required by law is **$750**. The petition in the above-identified application was not accompanied by payment of the required fee. Petitioner's deposit account does not have sufficient funds to charge the petition fee (or the $5 balance due for the filing fee for the Request for Continued Examination). Therefore, no consideration on the merits can be given the petition to revive until the required fee is received.

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

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

JIANHUA FAN
APT. C-2
5800 MAUDINA AVENUE
NASHVILLE, TN 37209

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AUG 2 1 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of
Jianhua fan
Application No. 10/050,661
Filed: January 16, 2002
For: EASY MOP

This is in response to the communication, filed November 27, 2006, which is being treated as a petition under 37 CFR 1.181(a) (no fee) to withdraw the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

A first petition to revive was filed under the unintentional provisions of 37 CFR 1.137(b) on February 6, 2006, and was dismissed on October 16, 2006 as failing to submit the reply and fee required by 37 CFR 1.137(b)(1) and (b)(2), respectively. Rather than renewing the petition under 37 CFR 1.137(b), petitioner now petitions to withdraw the holding of abandonment based on failure to receive the Office action mailed June 9, 2005, which set a three month shortened statutory period to reply. No timely reply having been received, the application became abandoned on September 10, 2005.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

The Office follows the guidelines set forth in MPEP Section 711.03(c) (see also "Withdrawing the Holding of Abandonment When Office actions Are not Received," 1156 Official Gazette 53 (November 16, 1993), which sets forth that, in the absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to the applicant at the address of record. This presumption may be overcome by a showing that the June 9, 2005 final Office action was not in fact received. The showing required to establish the failure to receive the June 9, 2005 final Office action must include a statement from the applicant stating that the Office action was not received by applicant 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 applicant's statement.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates and show that the due date for the final Office action of June 9, 2005, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after the mailing of the June 9, 2005 Office action, to demonstrate non-receipt of the Office action and to demonstrate that mail was being received at the address of record. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office action, and where petitioner would have entered the receipt date of the Office action had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from himself, or any other person at the address who may have handled the Office action, and indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the June 9, 2005 final Office action was not found. Unfortunately, petitioner's mere statement in the petition that mails are frequently lost is insufficient by itself to support a showing that the Office action of June 9, 2005 was not received.

In the present petition, petitioner did not submit any statements, documentary evidence, or an explanation of his method for tracking due dates for filing responses to communications from the USPTO to show he did not receive the June 9, 2005 Office action. Therefore, the petition to withdraw the holding of abandonment must be **dismissed**.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a renewed petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

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. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$750.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A $750 fee is due for reviving this application under the unintentional provisions of 37 CFR 1.137(b)(2).

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

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

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

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

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 related to this decision may be directed to the undersigned at (571) 272-3218.

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

Jianhua Fan
APT. C-2
5800 MAUDINA AVE.
NASHVILLE TN 37209

In re Application of	:	
Jianhua Fan	:	
Application No. 10/050,661	:	DECISION ON PETITION
Filed: January 16, 2002	:	
Attorney Docket No.	:	

This is a decision on the renewed petition, filed November 16, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the final Office action mailed June 9, 2005, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on December 28, 2005. Petitioner asserts that the Office action dated June 9, 2005 was not received.

This is a renewed petition under 37 CFR 1.181, the prior petition dated November 27, 2006 was dismissed in a decision mailed August 21, 2007. That petition was dismissed because petitioner failed to provide statements, documentary evidence or an explanation of his method for tracking due dates for filing responses to communications from the USPTO.

The renewed petition includes a "State & Action" list which appears to be an application log (petitioner has many applications before the Office). There are two entries for the instant application, the first entry noting an Office action of 5/26/04 with a response date of 6/21/04 and a second entry noting an Office action dated 11/4/04 with a "due" date of 2/22/05. These are the only two entries for the instant application and there were at least eleven (11) Office communications mailed out which set a response time. There was a notice of noncompliant

amendment mailed March 2, 2005 which petitioner responded to but, neither the notice or the response is recorded in petitioner's list. Therefore the list is clearly deficient in establishing complete mailing and response records. The rest of the list notes were to various other applications with some noting just a status or incomplete listings for Office communications. The renewed petition fails to provide any explanation of this State & Action list and does not describe how it was used to ensure timely responses to Office actions. The renewed petition does not discuss any other methods petitioner may have used to track responses from the Office.

The renewed petition fails to provide the necessary documentary evidence or explanation of methods for tracking due dates, as noted in the petition decision mailed August 21, 2007. Therefore, the petition to withdraw the holding of abandonment must be **dismissed**.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) 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 $770 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 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

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

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

David Bucei
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
DRW Sep-06

Paper No. 10

LAW OFFICE OF JOHN L. ISAAC
7114 W. JEFFERSON AVE.
SUITE 100
LAKEWOOD CO 80235-2309

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SEP 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Zheng Chen :
Application No. 10/050,671 : DECISION ON PETITION
Filed: 16 January, 2002 :
Atty Docket No. 7016.02.03 :

This is a decision on the petition filed on 19 April, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 4 December, 2004 for failure to timely reply to the Office action requiring restriction and/or election, mailed on 3 November, 2003, which set a one (1) month

---

[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)).

shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 17 May, 2004.

An election request has been filed as the required reply.

This application is being forwarded to Technology Center 1700 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

01 JUL 2004

#13

UNITED STATES PATENT AND TRADEMARK OFFICE

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Carl L. Johnson
Jacobson & Johnson
Suite 285
One West Water Street
St. Paul, Minnesota 55107-2080

In re Application of :
WECHNER, Edward :
U.S. Application No. 10/050,679 :
PCT No.: PCT/AU01/00560 : DECISION
Int. Filing Date: 16 May 2001 :
Priority Date: 09 June 2000 :
Attorney Docket No.: 5610 :
For: FREE-PISTON INTERNAL :
COMBUSTION ENGINE WITH VALVES
LOCATED IN PISTONS

This decision is in response to applicants' "Request for Change of Filing Status From U.S. Non-Provisional Application to U.S. National Stage Application" filed 03 November 2003. The initial papers filed 15 January 2002 were processed as a filing under 35 U.S.C. 111(a). For the reasons discussed below, the application will be converted to a national stage filing of PCT/AU01/00560.

BACKGROUND

On 16 May 2001, applicant filed international application PCT/AU01/00560 which claimed a priority date of 09 June 2000. A Demand was filed with the International Preliminary Examining Authority prior to the expiration of 19 months from the priority date, and as a result the deadline for payment of the basic national fee was extended to expire 30 months from the priority date, i.e., 09 December 2002.

On 15 January 2002, applicant filed a transmittal letter requesting entry into the national stage in the United States, which was accompanied, inter alia, by: the basic national fee; a small entity statement; and a copy of the international application. The application was processed as a filing under 35 U.S.C. 111(a).

On 03 November 2003, applicant filed Request for Change of Filing Status From U.S. Non-Provisional Application to U.S. National Stage Application;" "Declaration to Unintentional Error in Claiming Priority to Australian Provisional Instead of Australian Non-Provisional Application;" and "Acceptance of an Unintentionally Delayed Claim for Priority."

On 29 June 2004, applicant filed a supplemental declaration and power of attorney.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> To clearly indicate an international application is being filed under 35 U.S.C. 371 the applicant should use the "Transmittal Letter for United States Designated Office" (Form PTO-1390) as the transmittal letter.
>
> Alternatively, one of the following indications may be used:
> 1) the applicant shall clearly state in the transmittal or cover letter that he or she is filing under 35 U.S.C. 371 or entering the national stage under PCT; or
>
> 2) the applicant clearly identifies in the oath or declaration the specification to which it is directed by referring to a particular international application by PCT Serial Number and International Filing Date and that he or she is executing the declaration as, and seeking a U.S. Patent as, the inventor of the invention described in the identified international application.

As noted above, applicant's original transmittal letter, filed 15 January 2002, specifically identified the accompanying submission as a submission to enter the national stage under 35 U.S.C. 371. No contradictory instructions were submitted. Therefore, the application papers filed 15 January 2002 should have been processed under 35 U.S.C. 371, not 35 U.S.C. 111.

Accordingly, the filing receipt issued on this application, which did not indicate filing under 35 U.S.C. 371, was in error and is hereby vacated. It is noted that the declaration submitted on 15 January 2002 was not in compliance with 37 CFR 1.497(a)(3) which requires that the oath or declaration identify each inventor and the residence and country of citizenship of each inventor.

The supplemental declaration filed on 29 June 2004 is in compliance with 37 CFR 1.497(a)(3) and 35 U.S.C. 371(c)(4).

The petition for "Acceptance of an Unintentionally Delayed Claim for Priority" is not necessary and dismissed as moot. The $1330 petition under 37 CFR 1.78 will be refunded to Deposit Account no. 10-0210.

CONCLUSION

For the reasons above, the application will be converted from a 35 U.S.C. 111 filing to a national stage application under 35 U.S.C. 371.

This application has an international filing date of 16 May 2001 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of 29 June 2004.

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) and Official Filing Receipt which identifies this application as a national stage application of PCT/AU01/00560.

Thereafter, the application will be forwarded to Art Unit 3747.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone 703-308-6314
Fax: 703-308-6459

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ARLINGTON VA 22201-2909

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OFFICE OF PETITIONS

In re Application of	:	
Pershan, Paul Barry	:	
Application No. 10/050,733	:	ON PETITION
Filed: January 16, 2002	:	
Attorney Docket No. 01-1521	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 30, 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 a Request for Continued Examination (RCE) and an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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PATENT MANAGEMENT GROUP
1515 N. COURTHOUSE ROAD, SUITE 500
ARLINGTON VA 22201-2909

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MAR 0 9 2007

OFFICE OF PETITIONS

In re Application of :
Pershan, Paul Barry :
Application No. 10/050,733 : ON PETITION
Filed: January 16, 2002 :
Attorney Docket No. 01-1521 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 30, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply to the final Office action mailed June 16, 2006. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 17, 2006.

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).

Copied from 10505733 on 10/02/2007

The instant petition lacks item (1). The Amendment submitted to the Examiner on January 30, 2007, fails to place the above-identified application in prima facie condition for allowance. A proper reply to a final rejection under 37 CFR 1.113 may be: (1) an amendment, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Petitioner must submit one of the above documents in order to revive the above-identified application.

A copy of the Examiner's Advisory Action is enclosed.

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

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

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Advisory Action

Copied from 10505733 on 10/02/2007

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/050,733	**Applicant(s)** PERSHAN, PAUL BARRY	
	Examiner Andrew C. Lee	**Art Unit** 2616	

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

THE REPLY FILED 30 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *23-28*.
   Claim(s) objected to: *6 and 7*.
   Claim(s) rejected: *1-5,8-15*.
   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: _____.

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Continuation of 3. NOTE: Regarding the amendments to the claim filed on1/30/2007, the modified claim 1 incorporate a "new" limitation within the main body of the claim that raises new issues and hence changes the scope of the claim and claimed invention which requires further consideration and/or search. Applicant's remarks/arguments filed on 1/30/2007 with respect to claims 1 - 28 have been fully considered but they are not persuasive .

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Sean Brennan	: DECISION ON REQUEST FOR
Patent Number	: 7590859	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/050,752	: 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 **1261** 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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BANNER & WITCOFF
1001 G STREET NW
SUITE 1100
WASHINGTON, DC 20001

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DEC 27 2005

OFFICE OF PETITIONS

In re Patent No. 6,786,393 :
Issue Date: September 7, 2004 :
Application No. 10/050,775 : DECISION ON PETITION
Filed: January 18, 2002 :
Attorney Docket No. 001458.00016 :

This is a decision on the petition under 37 CFR 1.183, filed November 16, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignment information on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

The matter is being referred to the Certificate of Correction Branch to issue the Certificate of Correction.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : July 9, 2007

Patent No. : 7187438 B2
Application No : 10/050776
Inventor(s) : Hamamatsu, et al.
Issued : March 6, 2007
Title : **APPARATUS AND METHOD FOR INSPECTING DEFECTS**
Docket No. :

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

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

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

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

CBN/eme

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NOV 16 2004

Paper No. 12

In re Application of :
Yung H. Huang *et al* :
Application No. 10/050,801 : DECISION ON PETITION
Filed: December 19, 2001 :
Attorney Docket No. 17623 :

This is a decision on the petition filed by facsimile transmission on April 15, 2004 by which petitioners request withdrawal of holding that this application stands abandoned for failure to file a proper and timely reply to the Office letter dated August 11, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because petitioners did in fact file a proper and timely reply to the Office letter in question. Petitioners support this allegation by submitting a copy of the reply, and a copy of a request for a one month extension of time with authorization to charge the extension fee. The reply has affixed thereto a 37 CFR 1.8(a) certificate of transmission dated December 11, 2003, a date within the period for filing a reply to Office letter in question as extended by one month. Therefore, it is clear that this application is not abandoned. See 37 CFR 1.8(b).

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the reply dated December 11, 2003 and the extension of time filed therewith. A one month extension of time fee is to be charged to Deposit Account No. 11-0875. Thereafter, the supplemental response filed on December 15, 2003 will also be entered. There is no extension fee required. Then the application will be forwarded to the examiner for immediate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Kimberly-Clark Worldwide, Inc.
401 North Lake Street
Neenah, WI 54956

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OLYMPIC PATENT WORKS PLLC
P.O. BOX 4277
SEATTLE WA 98104

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OFFICE OF PETITIONS

In re Application of :
Ranjan :
Application No.10/050,807 : ON PETITION
Filed: October 25, 2001 :
Attorney Docket Number: 35014.039 :
Title of Invention: Method and System for :
Matching an Incident to a Route :

This is a decision on the petition filed April 20, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This petition is hereby **Dismissed.**

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

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fee (s) Due which was mailed November 27, 2002. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on February 27, 2003. A Notice of Abandonment was mailed on April 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 Director may require

additional information. See MPEP 711.03 (c)(III)(C) and (D).

The instant petition lacks item (3). The statement of unintentional delay presented in the petition does not comply with the current rule. Pursuant to 37 CFR 1.137(b)(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*" is required. The filing of a petition under 37 CFR §1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). The application has been abandoned for over three years from the mailing date of the Notice of Abandonment as such petitioner must submit additional information regarding the 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 facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OLYMPIC PATENT WORKS PLLC
P.O. BOX 4277
SEATTLE WA 98104

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In re Application of
Ranjan
Application No.10/050,807
Filed: October 25, 2001
Attorney Docket Number: 35014.039
Title of Invention: Method and System for Matching an Incident to a Route

ON PETITION

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

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fee (s) Due which was mailed November 27, 2002. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on February 27, 2003. A Notice of Abandonment was mailed on April 14, 2003.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT and TRADEMARK OFFICE
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WASHINGTON, D.C. 20231
WWW.USPTO.GOV

GC

Mailed: 9-8-06

In re application of :
Yoshizumi et al. :
Serial No. 10/050,866 : DECISION ON
Filed: January 18, 2002 : PETITION
For: ONBOARD FUEL CELL SYSTEM BAND :
METHOD OF DISCHARGING HYDROGEN- :
OFF GAS :

This is a decision on the PETITION UNDER 37 CFR 1.181 TO DIRECT THE EXAMINER TO EXAMINE WITHDRAWN CLAIMS 11 AND 12, dated June 27, 2006.

On September 7, 2005, the Examiner made a Restriction/Election requirement. The requirement included an election of species between embodiment 1, figure 1; embodiment 2, figure 6; and embodiment 3, figure 7. The election of species requirement as set forth by the Examiner required Applicant to fully elect one species and list the corresponding claims to the elected species. Applicant responded to the requirement in a response filed on October 14, 2005. In the response, Applicant elected the Species of embodiment 2, figure 6 and indicated that claims 1, 6, 8, 11-15, 21, 31, 37-39 read on the elected species. A second requirement was mailed on December 13, 2005 indicating that claims 11, 12 and 21 do not read on the elected species and should be considered withdrawn. Applicant responded on January 12, 2006 arguing that the claim limitations of claims 11, 12 and 21 do in fact read on the elected species. A third requirement was mailed on February 21, 2006 indicating that claim 21 reads on the elected species, but that claims 11 and 12 still do not read on the elected species. On March 6, 2006 the third requirement was vacated and a Non-Final Office Action on the merits was mailed on May 2, 2006 indicating claims 2-4, 9-12, 16-20, 22, 23, 32-36, 40-42, 44-49 were withdrawn as being directed to the non-elected species. Applicants responded to the Office Action on June 27, 2006 with arguments directed to the Examiner's holding of claims 11 and 12 as being directed to the non-elected species. A Final Office Action was mailed on August 4, 2006 continuing to indicate that claims 11 and 12 were withdrawn as being directed to a non-elected species.

On June 27, 2006 the instant petition under 37 CFR 1.181 was filed to formally request that the Examiner be directed to examine claims 11 and 12 as reading on the elected Species.

DECISION

Section 806.04(e) of the MPEP states:

> 806.04(e) [R-3] Claims Limited to Species
> Claims are definitions of inventions. Claims are never species. The scope of a claim may be limited to a single disclosed embodiment (i.e., a single species, and thus be

> designated a specific species claim), or a claim may include two or more of the disclosed embodiments within the breadth and scope of the claim (and thus be designated a generic or genus claim).
> Species are always the specifically different embodiments.
> Species may be either independent or related as disclosed (see MPEP § 806.04 and § 806.04(b)).

Section 806.04(f) of the MPEP states:

> 806.04(f) [R-3] Restriction Between Mutually Exclusive Species
> Where two or more species are claimed, a requirement for restriction to a single species may be proper if the species are mutually exclusive. Claims to different species are mutually exclusive if one claim recites limitations disclosed for a first species but not a second, while a second claim recites limitations disclosed only for the second species and not the first. This may also be expressed by saying that to require restriction between claims limited to species, the claims must not overlap in scope.

Petitioner argues that the Examiner's holding of claims 11 and 12 as being withdrawn from consideration was incorrect in that claims 11 and 12 read on the elected embodiment of Figure 6.

Claim 11 recites:

> The onboard fuel cell system according to claim 1, further comprising,
>
> a seventh flow passage which leads to an oxidative gas-supplying port of the fuel cell and through which the supplied oxidative gas can flow;
> a flow rate-changing portion which is disposed in the second flow passage or the seventh flow passage and which can change the flow rate of the discharged oxygen-off gas; and
> a control portion adapted to control the valve and the flow rate-changing portion,
> wherein the control portion can increase the flow rate of the discharged oxygen-off gas from a predetermined flow rate by means of the flow rate-changing portion when opening the valve.

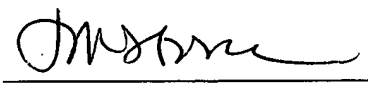
Claim 12 recites:

> The onboard fuel cell system according to claim 1, further comprising,
>
> a seventh flow passage which leads to an oxidative gas-supplying port of the fuel cell and through which the supplied oxidative gas can flow;
> a flow rate-changing portion which is disposed in the second flow passage or the seventh flow passage and which can change the flow rate of the discharged oxygen-off gas; and
> a control portion which controls the valve and the flow rate-changing portion,
> wherein the control portion opens the valve by means of the flow rate-changing portion if the flow rate of the discharged oxygen-off gas is higher than a predetermined flow rate.

The limitation in question is that there is a "flow rate-changing portion which is disposed in the second flow passage or the seventh flow passage and which can change the flow rate of the discharged oxygen-off gas". The elected species of embodiment 2, figure 6, includes a flow rate-changing portion which is disposed in **the seventh flow passage** and which can change the flow rate of the discharged oxygen-off gas which is represented by the compressor 504. However, the

limitation that there is a flow rate-changing portion which is disposed in **the second flow passage** and which can change the flow rate of the discharged oxygen-off gas does not read on the elected species in that no flow rate-changing portion in the second flow passage was described in the second embodiment, figure 6. Thus, the claims recite limitations that read on both the elected species and non-elected species stated in the alternative form. Therefore, the alternative which includes the claim limitation of providing a flow rate-changing portion in the seventh flow passage is considered to read on the elected species and should be examined with the other elected claims.

Accordingly, because the withdrawing of claims 11 and 12 as being directed to a non-elected species was improper, the petition is **GRANTED**. The Examiner is directed to send out an Office Action considering the claims 11 and 12 for examination.



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

C. IRVIN MCCLELLAND
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,866	01/18/2002	Kiyoshi Yoshizumi	218209US3	9246

22850 7590 09/28/2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
HODGE, ROBERT W

ART UNIT	PAPER NUMBER
1795	

NOTIFICATION DATE	DELIVERY MODE
09/28/2009	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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Mailed: 9/25/09

In re application of :
Yoshizumi et al. : DECISION ON
Serial No. 10/050,866 : PETITION
Filed: January 18, 2002 :
For: ONBOARD FUEL CELL SYSTEM BAND METHOD OF DISCHARGING HYDROGEN-OFF GAS

This is a decision on the PETITION UNDER 37 CFR 1.144 REQUESTING WITHDRAWAL OF THE RESTRICTION REQUIREMENT made final in the Office action mailed June 4, 2009.

On March 2, 2009, the Examiner made a Restriction/Election requirement. The election of species requirement as set forth by the Examiner required Applicant to fully elect one species for the valve control and one species for how the off gas(es) is/are fed to the missing portion.

Applicant responded to the requirement in a response filed on April 30, 2009. In the response, Applicant elected with traverse the species of embodiment 3a and 3b (as identified in the restriction requirement) and indicated that claims 1, 8, 13-15, 37-39 and 51-67 read on the elected species. A final Office action was mailed on June 4, 2009 which further considered claims 13, 54-57 and 59-62 to be withdrawn as being directed to a non-elected species.

On September 3, 2009, the present petition requesting withdrawal of the restriction requirement of March 2, 2009 be withdrawn. The present petition also traverses the Examiner's withdrawal of claims 13, 54-57 and 59-62.

DECISION

Section 806.04(f) of the MPEP states:

> 806.04(f) [R-3] Restriction Between Mutually Exclusive Species
> Where two or more species are claimed, a requirement for restriction to a single species may be proper if the species are mutually exclusive. Claims to different species are mutually exclusive if one claim recites limitations disclosed for a first species but not a second, while a second claim recites limitations disclosed only for the second species and not the first. **This may also be expressed by saying that to require restriction between claims limited to species, the claims must not overlap in scope.** (Emphasis added).

Petitioner argues that both election of species requirements in the March 2, 2009 restriction are improper because both species are not mutually exclusive. This is extensively argued in the original traversal of April 30, 2009, as well as in the current petition (see pages 2-4). The petitioner's argument is persuasive for the reasons set forth in the present petition. Additionally,

as argued by the petitioner, the asserted burden that the different species "are likely to raise different non-prior art issues under 35 USC 101 and/or 35 USC 112, first paragraph" is grossly improper. The Examiner is directed to MPEP 808.02, which states that the he/she must establish a serious burden by showing by appropriate explanation one of the following: (A) separate classifications, (B) separate status in the art when they are classifiable together or (C) a different field of search.

Accordingly, the petition is **GRANTED**. A Request for Continued Examination was filed on September 3, 2009. The next Office action by the Examiner will withdraw the restriction requirement of March 2, 2009 and include an action on the merits over claims 1, 8, 13-15, 37-39 and 51-67.

/Gregory L Mills/
Gregory L. Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

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Paper No. 13

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WASHINGTON DC 20005

In re Application of
Jonathan S. Till
Application No. 10/050,879
Filed: January 18, 2002
Attorney Docket No. 10551/317

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 3, 2003 and supplemented on January 15, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional Application No. 09/930,287, filed August 16, 2001. This petition is also being treated as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed additional claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/225,659, filed August 16, 2000.

The petition is **DISMISSED**.

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

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

---

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

The instant application was filed on January 18, 2002 and was pending at the time of filing of the instant petition.

The reference to the prior-filed application was not included in the manner specified in 37 CFR 1.78(a)(2)(i) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(2)(ii).

As to the benefit claim under 37 CFR 1.78(a)(6):

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

> (1) the surcharge set forth in 37 CFR 1.17(t);
>
> (2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and
>
> (3) the reference to the prior filed provisional application supplied in an application data sheet (ADS)37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. See 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(i). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The reference to the above-noted, prior-filed provisional application was not included in the manner specified in 37 CFR 1.78(a)(5)(i) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(5)(ii).

A reference to add the prior-filed applications on page one following the first sentence of the specification has been included in an amendment filed on January 15, 2004. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

Accordingly, before the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) can be granted, a substitute amendment deleting the incorporation by reference statement is required.

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

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

By hand: Customer Window located at:

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

Central Fax: (703) 872-9306

Any questions concerning this matter may be directed to Karen Creasy at (703) 305-8859.

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

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OFFICE OF PETITIONS

KENYON & KENYON
1500 K STREET, N.W., SUITE 700
WASHINGTON DC 20005

In re Application of
Jonathan S. Till
Application No. 10/050,879
Filed: January 18, 2002
Attorney Docket No. 10551/317

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed March 1, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed Application No. 09/930,287, filed August 16, 2001, and on the petition under 37 CFR 1.78(a)(6) for the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/225,659, filed August 16, 2000, set forth in the amendment submitted with the instant petition.

The petition is **Granted**.

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

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

---

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

The instant application was filed on January 18, 2002 and was pending at the time of filing of the instant petition. A reference to the prior-filed application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(3).

As to the benefit claim under 37 CFR 1.78(a)(6):

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

(1) the surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and

(3) the reference to the prior filed provisional application supplied in an application data sheet (ADS)37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. See 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(i). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on January 18, 2002. Intermediate Application No. 09/930,287, was filed within twelve months of provisional Application No. 60/225,659, which was filed on August 16, 2000, for which priority is claimed. A reference to the prior- filed applications has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Also, the reference to the prior-filed applications was submitted during the pendency of the nonprovisional application for which the benefit is sought. See 35 U.S.C. § 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed aplications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Karen Creasy at (703) 305-8859.

This application is being forwarded to Technology Center Art Unit 1615 for processing the amendment submitted March 1, 2004, and for processing and consideration by the examiner of the claim under 35 U.S.C. §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Karen Creasy

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

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 5

MESMER & DELEAULT, PLLC
41 BROOK STREET
MANCHESTER, NH 03104

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OFFICE OF PETITIONS

In re Application of :
MACALLISTER, et al. :
Application No. 10/050,883 : ON PETITION
Filed: November 9, 2001 :
Attorney Docket No. Mac11081 :

This is a decision on the papers styled, "Petition To Contend Omitted Items Were In Fact Deposited In The US Patent And Trademark Office," filed on June 4, 2002 (Certificate of Mailing Date: May 14, 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 9, 2001, including Figures 7 - 10 as described in the specification.

The application was filed on November 9, 2001. On March 15, 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 Figures 7 - 10 as described in the specification appear to have been omitted.

In response, on June 4, 2002, the instant petition and a copy of Figures 7 - 10 as described in the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of four (4) sheets of drawings on November 9, 2001. The four (4) sheets of drawings contain Figures 1 - 10, with the fourth sheet of drawings containing Figures 7 - 10. A review of the application file indicates the presence of only three (3) sheets of drawings with the fourth sheet containing Figures 7 - 10 missing. It is assumed that the fourth sheet of drawings containing Figures 7 - 10 was misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee submitted on June 4, 2002 will be refunded by treasury check.

This application will be returned to OIPE for further processing with a filing date of November 9, 2001, using the copy of Figures 7 - 10 as described in the specification, supplied on June 4, 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 & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 7/26/02 | 2 Serial/Patent # 10/050,883

	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	B	6-4-02	$130
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	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $130

8 TO BE REFUNDED BY:

- X Treasury Check
- Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

- Overpayment
- Duplicate Payment
- X No Fee Due (Explanation): PTO error

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: E. Tarnowski TITLE: Pat. Atty.

SIGNATURE: [signature] PHONE: 306-9200

OFFICE: 4700

****

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WASHINGTON DC 20005

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ON PETITION

In re Application of :
Wolfgang A. Renner et al :
Application No. 10/050,902 :
Filed: January 18, 2002 :
Attorney Docket No. 1700.0190004/BJD/SJE :

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 October 3, 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 1648 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

KEN BURRASTON
KIRTON & MCCONKIE
PO BOX 45120
SALT LAKE CITY, UT 84145-0120

COPY MAILED

JUL 15 2004

OFFICE OF PETITIONS

In re Application of	:	
Khandros et al.	:	
Application No. 10/050,908	:	ON PETITION
Filed: January 18, 2002	:	
Attorney Docket No.	:	
2026.0100000/MVM/J-C	:	

This is in response to the petition under 37 CFR 1.137(b), filed June 21, 2004.

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, January 20, 2004, 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 April 21, 2004.

The petition includes the required reply in the form of payment of the Issue Fee and the Publication Fee[2]; the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

The Office of Patent Publication has been advised of this decision. The application is ready for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

---

[2] There was no distinct but concurrent requirement for new drawings.

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FEB - 9 2004

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FEB - 9 2004

OFFICE OF THE DIRECTOR
TC 3600

Jan H. Zicha
7414 Lake Glen Drive
Glenn Dale, MD 20769

Paper No. 7

In re Application of
Jan Herman Zicha
Application No. 10/050,937
Filed: January 22, 2002
For: INTERNALLY RESILIENT TIE FOR RAILWAY TRACK

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on September 24, 2003.

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

☒ USPTO transmittal form dated April 11, 2003 by OIPE which identifies the application by serial number and the type of Response that was filed on that date.

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

☐ Certificate of Mailing/Transmission signed on _____. and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

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

cps/1/29/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN H. ZICHA
8629 LESLIE AVENUE
LANHAM MD 20706

COPY MAILED

JUN 15 2006

OFFICE OF PETITIONS

In re Application of :
Zicha :
Application No. 10/050,937 : ON PETITION
Filed: January 22, 2002 :
Title: Internally Resilient Tie for Railway Track :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed August 29, 2005.

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

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing 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.

This above-identified application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of November 3, 2004. The final Office Action set a three (3) month shortened statutory period for reply. An amendment was filed on December 30, 2004. An Advisory Action was mailed on January 26, 2005 informing applicant the response filed did not place the application in condition for allowance. An untimely amendment was filed on April 11, 2005. Accordingly, this application became abandoned on February 3, 2005. A Notice of Abandonment was mailed on August 12, 2005.

Petitioner contends that the April 11, 2005 amendment was submitted in response to the Advisory Action mailed on January 26, 2005. Petitioner request that the holding of abandonment be withdrawn.

Petitioner's argument has been considered but has been deemed to be unpersuasive. The Final Office Action provided petitioner with a shortened statutory period for reply of February 3, 2005. Petitioner could have purchased an additional three months, providing petitioner with a maximum reply period of May 3, 2005. The advisory action informed petitioner that the amendment submitted on December 30, 2004 did not place the application condition for allowance. The advisory action did not provide petitioner with a new period for reply but did inform petitioner that extensions of time may be available under 37 CFR 1.136(a).

Accordingly, the amendment submitted on April 11, 2005 without benefit of a petition for extension of time and accompanying fee was properly held abandoned.

Petitioner may wish to file a petition to revive 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 delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

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

Ogilvy Renault
1981 McGill College Avenue, Suite 1600
Montreal, QC H3A2Y3
CANADA

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JAN 22 2003

OFFICE OF PETITIONS

In re Application of :
Hall et al. :
Application No. 10/050,941 : ON PETITION
Filed: January 22, 2002 :
Attorney Docket No. 15186-24USJA/AD/MB :

This is a decision on the petition filed October 23, 2002, to revive the instant non-provisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is GRANTED.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country on July 16, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

The instant petition has been found 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 "entire delay in filing the required reply [Notice to Rescind Previous Non-publication Request Under 35 U.S.C. 122(b)(2)(B)(ii)] until the filing of a grantable petition was unintentional."

Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C.§122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C.§122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of May 1, 2003 accompanies this decision on petition.

The application file is being forwarded to Technology Center AU 2872 for examination in due course.

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

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

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

cc: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MILTON S. SALES
PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER NY 14650-2201

MAILED

NOV 2 3 2009

OFFICE OF PETITIONS

In re Application of :
Lou CHAUVIN et al. :
Application No. 10/050,979 : DECISION ON PETITION
Filed: January 18, 2002 :
Attorney Docket No. 83304DF-P :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 03, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed March 05, 2008, which set a shortened statutory period for reply of three (3) months. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). Accordingly, the application became abandoned on July 06, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of March 05, 2008 is accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason undersigned at (571)-272-4231.

This application is being referred to Technology Center AU 2452 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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MCDERMOTT WILL & EMERY, LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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JAN 31 2008

OFFICE OF PETITIONS

In re Patent No. 7,191,443 :
Issue Date : March 13, 2007 :
Application No. 10/050,988 : DECISION ON PETITION
Filed: January 22, 2002 :
Patentee(s): Yuko Imanishi, et. al. :

This is a decision on the petition under 37 CFR 1.182, filed January 15, 2008, to correct the spelling of the name of inventor "Yuko Kubooka" to "Yuko Imanishi".

The petition is **granted**.

A petition under 37 CFR 1.182 requires a petition fee of $400. Accordingly, the $130 petition fee submitted on January 15, 2008 will be applied towards the required $400 fee. As authorized, the deficiency of $270 has been charged to petitioner's deposit account.

This patent file is being referred 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) 272-3226. 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ANDERSON, KILL & OLICK, P.C.
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020-1182

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JAN 10 2006

OFFICE OF PETITIONS

In re Application of :
Jeong-Min Yoon, et al. :
Application No. 10/050,998 : ON PETITION
Filed: January 22, 2002 :
Attorney Docket No. MM4489 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 16, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed December 29, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 30, 2005.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

Pet Dec.

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUL 14 2004

In re Application of	:	
Salem, G.F. et. al.	:	NOTICE OF WITHDRAWAL
Serial No. 10/051002	:	FROM ISSUE
Filed: January 22, 2002	:	UNDER 37 CFR 1.313(b)
For: ARTRITION RESISTANT INORGANIC	:	
MICROSHERODIAL PARTICLES	:	

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.

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 Jim Seidleck (571) 272-1078.

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

CAROL WILSON
BP AMERICA INC.
MAIL CODE 5 EAST
4101 WINFIELD ROAD
WARRENVILLE IL 60555

cc: Allowed Files—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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IFW

JUL 14 2004

In re Application of	:	
Salem, G.F. et. al.	:	NOTICE OF WITHDRAWAL
Serial No. 10/051002	:	FROM ISSUE
Filed: January 22, 2002	:	UNDER 37 CFR 1.313(b)
For: ARTRITION RESISTANT INORGANIC	:	
MICROSHERODIAL PARTICLES	:	

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.

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 Jim Seidleck (571) 272-1078.

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

CAROL WILSON
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WARRENVILLE IL 60555

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OIPE/JCWS

cc: Allowed Files—Pk3-910

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FEB 0 9 2005

OFFICE OF PETITIONS

William W. Habelt
Carrier Corporation
P.O. Box 4800
Syracuse, NY 13221

In re Application of :
Marks, et al. : DECISION ON PETITION
Application No. 10/051,003 :
Filed: January 18, 2002 :
Atty. Dkt. No.: 9319 :

This decision is in response to the petition under 37 CFR 1.137(b), filed September 28, 2004.

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

This application became abandoned June 1, 2004 for failure to timely submit a proper reply to the "REMAND AND ORDER FOR CLARIFICATION" mailed March 31, 2004. The Order set a two month non-extendible period of time for response. This decision precedes notice of dismissal of appeal.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely reply to the Order mailed March 31, 2004 is accepted as having been unintentionally delayed.

The required petition fee has been charged to applicants' deposit account as authorized in the instant petition.

This application file is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

JUL 17 2002

Paper No. 6

In re Application of	:	
Guerin Dubose Rife	:	
Serial No. 10/051,011	:	DECISION ON PETITION
Filed: January 22, 2002	:	TO MAKE SPECIAL
For: IRON TYPE GOLF CLUB	:	

Applicant's petition, filed July 11, 2002, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

John L. Welsh
Welsh and Flaxman LLC
2341 Jefferson Davis Hwy., Suite 112
Arlington, VA 22202

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 10

Gavin N. Manning
Oyen Wiggs Green & Mutala
480 – The Station
601 West Cordova Street
Vancouver, B.C., Canada V6B 1G1

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JUL 03 2003

OFFICE OF PETITIONS

In re Application of
Daniel Gelbart
Application No. 10/051,016
Filed: January 22, 2002
Attorney Docket No. N/A

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 12, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 24, 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 January 25, 2003.

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

In view of the Certificate under 3.73(b) filed with the instant petition the Revocation Power of Attorney filed on May 16, 2003, has been accepted.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry D. Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 2800, Art Unit 2851.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry D. Brinkley
Petitions Examiner

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OFFICE OF PETITIONS

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of	:	
Munemitsu Ikegami	:	
Application No. 10/051,019	:	DECISION GRANTING PETITION
Filed: January 22, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 217487US2	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 10, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 21, 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) 272-3208.

This application is being referred to Technology Center AU 2625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Arlington, VA 22313
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Paper No. 10

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JUN 1 0 2003

OFFICE OF PETITIONS

Ford Global Technologies, LLC
Suite 600 – Parklane Towers East
One Parklane Blvd.
Dearborn, MI 48126

In re Application of :
Tarabishy et al. :
Application No. 10/ 051,063 : ON PETITION
Filed: January 17, 2002 :
Attorney Docket No. 201-0473 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 30, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed September 27, 2002, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on December 28, 2002.

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

The application file is being forwarded to Technology Center AU 3661 for review of the Amendment and Request for Reconsideration submitted May 30, 2003.

Latrice Bond

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

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Paper No.

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CUMMINGS & MEHLER, LTD.
SUITE 2850
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CHICAGO IL 60606

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APR 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Takashi Hamada et al :
Application No. 10/051,064 : ON PETITION
Filed: January 18, 2002 :
Attorney Docket No. SEL 299 :

This is a decision on the petition, filed March 31, 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 1, 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 2823 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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

COPY MAILED

AUG 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Takashi Hamada et al :
Application No. 10/051,064 : ON PETITION
Filed: January 18, 2002 :
Attorney Docket No. SEL 299 :

This is a decision on the petition, filed August 4, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 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) 305-8859.

The examiner of Technology Center AU 2823 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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Paper No. 8

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
1300 I STREET, NW
WASHINGTON, DC 20005

COPY MAILED

JUN 0 6 2002

OFFICE OF PETITIONS

In re Application of :
Sakagami et al. :
Application No. 10/051,098 : DECISION GRANTING
Filed: January 22, 2002 : PETITION
Attorney Docket No. 4853.0023-02 :

This is a decision on the petition filed March 21, 2002, to accord the above-identified application a filing date of January 22, 2002.

On January 22, 2002, the application was deposited.

On February 12, 2002, the Office of Initial Patent Examination mailed a Notice stating that drawings were missing and that a filing date would be accorded upon receipt of drawings.

In response, the present petition alleges that the drawings were inadvertently omitted. However, the transmittal sheet incorporated by reference the entire disclosure of the parent application. The petition states, "the attached drawings are part of prior Application No. 08/949,038."

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted.

Based on the incorporation by reference, it appears that drawings were present in the Office on January 22, 2002, albeit in the file of another application, i.e., application No. 08/949,038. Therefore, on petition, the application may be accorded the requested filing date of January 22, 2002.

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

The petition fee of $130 will not be refunded since the petition was required to accord the application the requested filing date.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 22, 2002, using the application papers filed on January 22, 2002, and the copy of the drawings filed on March 21, 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

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

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Finnegan Henderson Farabow Garrett & Dunner LLP
1300 I Street NW
Washington DC 20005

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JUN 17 2005

OFFICE OF PETITIONS

In re Application of :
Sakagami et al. :
Application No. 10,051,098 : Letter Regarding PTA
Filed: January 22, 2002 :
Attorney Docket No. 4853-0023-02 :

This is in response to the "COMMUNICATION RE PATENT TERM ADJUSTMENT," filed June 24, 2004. Applicants disclose that a terminal disclaimer was submitted in this application and thus, an adjustment of the patent term is not warranted.

The request for correction of the patent term adjustment (PTA) is **DISMISSED**.

Patentees are given **thirty (30) days** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

35 U.S.C. 154(b)(2)(B) provides that:

> No patent the term of which has been disclaimed beyond a specified date may be adjusted under this section beyond the expiration date specified in the disclaimer.

37 CFR § 1.703(g) provides that:

> No patent, the term of which has been disclaimed beyond a specified date, shall be adjusted under § 1.702 and this section beyond the expiration date specified in the disclaimer.

The provisions of § 154(b), for adjustment due to examination delay, apply to original applications[1], other than designs, filed on or after May 29, 2000. The Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers and those that do not. Nor does the Office undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

---

[1] Since a continued prosecution application (CPA) under § 1.53(d) is a new application, the filing of a CPA application on or after May 29, 2000, in an application filed before May 29, 2000 causes the application (CPA) to be eligible for patent term adjustment.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 CFR § 1.703(g), it is indicated in the patent that the patent term adjustment indicated therein is subject to any disclaimer. Moreover, it is also stated therein that the patent is subject to a terminal disclaimer.

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

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

Kery A Fries
for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington DC 20001-4413

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OFFICE OF PETITIONS

In re Application of
Sakagami et al
Application No. 10/051,098
Filed: January 22, 2002
Attorney Docket No. 4853.0023-02

DECISION REGARDING PTA LETTER

This is in response to the "STATEMENT REGARDING PATENT TERM ADJUSTMENT," filed June 24, 2004. Applicants disclose that a terminal disclaimer was submitted in this application and thus, an adjustment of the patent term is not warranted.

The request for correction of the patent term adjustment (PTA) is **DISMISSED**.

Patentees are given **thirty (30) days** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

35 U.S.C. 154(b)(2)(B) provides that:

> No patent the term of which has been disclaimed beyond a specified date may be adjusted under this section beyond the expiration date specified in the disclaimer.

37 CFR § 1.703(g) provides that:

> No patent, the term of which has been disclaimed beyond a specified date, shall be adjusted under § 1.702 and this section beyond the expiration date specified in the disclaimer.

The provisions of § 154(b), for adjustment due to examination delay, apply to original applications[1], other than designs, filed on or after May 29, 2000. The Office calculates patent term

[1] Since a continued prosecution application (CPA) under § 1.53(d) is a new application, the filing of a CPA application on or after May 29, 2000, in an application filed before May 29, 2000 causes the application (CPA) to be eligible for patent term adjustment.

adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers and those that do not. Nor does the Office undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 CFR § 1.703(g), it is indicated in the patent that the patent term adjustment indicated therein is subject to any disclaimer. Moreover, it is also stated therein that the patent is subject to a terminal disclaimer.

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

After the mailing of this decision, the Office will forward the application to the Office of Patent Publication for a prompt issuance of the patent. Any delays in the issuance of the patent will be reflected in the PTA determination provided with the issue notification which is mailed approximately three weeks prior to issuance of the patent.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

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

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AUG 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Raymond Bell, et al. :
Application No. 10/051,122 : DECISION GRANTING PETITION
Filed: January 22, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 040092-009400US :

This is a decision on the petition, filed June 5, 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 January 22, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the 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 December 4, 2003 accompanies this decision on petition.

An oath or declaration in compliance with 37 CFR 1.63 is required in this application, since the citizenship of the third inventor was not identified. A Notice of Informal Application (Notice) pertaining to such was to be mailed to petitioner, but inadvertently, the Notice was never mailed. A copy of this Notice is attached herewith. Petitioner should note that the Notice states that the oath or declaration "does not identify the citizenship of each inventor." However, a cursory review of the declaration shows that only the citizenship of the third inventor is not given. In view of the above, petitioner is given TWO (2) MONTHS from the date of this decision to file an oath or declaration complying with 37 CFR 1.63 and to pay the $130 surcharge set forth in 37 CFR 1.16(e). This time period may be extended pursuant to the provisions of 37 CFR 1.136(a). The oath or declaration should identify the specification to which it is directed by reference to the above application number and filing date. The reply should be directed to the attention of the Office of Initial Patent Examination. **Failure to respond will again result in the abandonment of the application.**

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

This application is being forwarded to the Office of Initial Patent Examination to await a supplemental declaration in compliance with 37 CFR 1.63.

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

ATTACHMENTS: Notice Regarding Rescission of Nonpublication Request
Copy of un-mailed Notice of Informal Application

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,122	01/22/2002	Raymond Mark Bell JR.	18180.0116	7461

7590 08/13/2004

MARK J. ITRI, ESQ.
MCDERMOTT, WILL & EMERY
18191 VON KARMAN AVENUE
SUITE 400
IRVINE, CA 92612

EXAMINER	
ULLAH, AKM E	

ART UNIT	PAPER NUMBER
2874	

DATE MAILED: 08/13/2004

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

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Paper No. 080404

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

AUG 12 2004

In re Application of:
RAYMOND MARK BELL
Serial No.: 10/051,122
Filed: January 22, 2002
Attorney Docket No.: **040092-009400US**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 18, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of McDermott, Will & Emery was filed on April 05, 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

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

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: MARK J. ITRI
MCDERMOTT, WILL & EMERY
18191 VON KARMAN AVE., SUITE 400
IRVINE, CA 92612-0187

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Joseph A. Rhoa, Esq.
NIXON & VANDERHYE P.C.
1100 North Glebe Road, 8th Floor
Arlington VA 22201-4714

COPY MAILED

OCT 09 2007

OFFICE OF PETITIONS

In re Application of :
Richard B. Strachan :
Application No. 10/051,139 : DECISION ON PETITION
Filed: 01/22/2002 :
Attorney Docket No. 3714-3 :

This is decision on the petition under 37 CFR 1.181, filed May 11, 2007, to withdraw the holding of abandonment.

This application became abandoned for failure to reply timely to the nonfinal Office Action mailed October 11, 2006, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on January 12, 2007. A Notice of Abandonment was mailed on
May 4, 2007.

Applicant asserted he did not receive the nonfinal Office Action of October 11, 2006, and thus, requested withdrawal of the holding of abandonment. The practitioner and applicant stated that they searched the file jacket and docket records relating to the application; however, the search revealed that they did not receive the Office Action dated October 11, 2006. In support of the assertion, applicant submitted copies of the docket records. Specifically, applicant stated that the docket sheets, last updated December 28, 2006, showed a Call-Up to be done on June 28, 2007, to determine if an Office Action was received. Thus, applicant averred that the docket sheets clearly indicated that the Office Action of October 11, 2006, was not received.

After reviewing the USPTO records, it appears that the address of record, where the nonfinal Office Action was mailed, differs from the address listed on the petition. There is nothing in the record to show that the practitioner or applicant submitted a change of correspondence address with the USPTO prior to the mailing of the nonfinal Office Action of October 11, 2006, and thus, the communication was returned to the USPTO.

As the record reveals that neither the practitioner nor applicant submitted a change of correspondence address, the USPTO mailed the nonfinal Office Action of October 11, 2006, to the correct correspondence address, as it existed on record at that time. Accordingly, the petition to withdraw the holding of abandonment is **dismissed**. A copy of the nonfinal Office Action accompanies this decision for applicant's convenience.

Any request for reconsideration of this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are permitted under 37 CFR 1.136(a). The request for reconsideration should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

If applicant cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, applicant may wish to file a petition under 37 CFR 1.137(b) accompanied by a reply to the outstanding Office Action, a $770.00 petition fee for a small entity, and an appropriate statement of unintentional delay. 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).

As a one-time courtesy the Office is mailing a carbon copy of this decision to the address listed on the petition. Thereafter, all Office communications will be mailed to the address of record unless applicant files a proper change of correspondence address with the USPTO.

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 Petition

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

Correspondence regarding this decision may also be filed through the Electronic Filing System of the USPTO.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Attachment: Copy of Nonfinal Office Action

Cc: Joseph A. Rhoa, Esq.
NIXON & VANDERHYE P.C.
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,139	01/22/2002	Richard B. Strachan	3714-3	9802

7590 10/11/2006

Joseph A. Rhoa, Esq.
NIXON & VANDERHYE P.C.
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714

EXAMINER	
FISHER, MICHAEL J	

ART UNIT	PAPER NUMBER
3629	

DATE MAILED: 10/11/2006

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

Office Action Summary	Application No.	Applicant(s)	
	10/051,139	STRACHAN, RICHARD B.	
	Examiner	Art Unit	
	Michael J. Fisher	3629	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 6-8 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 6-8 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 6-8 are rejected on the ground of nonstatutory double patenting over claims 1, 3,5,6 of U. S. Patent No. 6,347,086 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: a method of wagering. Claim 6 of the instant application is generally the same as claims 1, 5 and 6. Claim 7 of the instant application is contained in claim 1 and claim 8 is generally the same as claim 3 of the patent. The difference being that in the patent the server is causing the events to happen, in the instant application it is unclear who or what is causing the actions, who or what performs the steps would not make the invention patentably distinct unless the applicant could point out exactly why this would make it patentably distinct.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See MPEP § 804.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Fisher whose telephone number is 571-272-6804. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael J. Fisher

Patent Examiner
GAU 3629

MF
9/26/06

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APR 13 2005

#6

JENKENS & GILCHRIST, P.C.
225 WEST WASHINGTON
SUITE 2600
CHICAGO IL 60606

In re Application of	:	
Sakharam D. Mahurkar	:	DECISION ON PETITION
Serial No.: 10/051,140	:	
Filed: January 22, 2002	:	
For: Improved Retractable Needle	:	
Single Use Safety Syringe	:	

This is in response to applicants' petition filed November 12, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

The 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 Richard Bertsch by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450 Washington, DC 20231, or by telephone at (571) 272-4050 or by facsimile transmission at (703) 872-9306.

Richard A. Bertsch, Director
Technology Center 3700

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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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)
6,943,750	2005-09-13	10/051,141	2002-01-22	

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	/Andrew Babcock, Reg. # 44517/	Date (YYYY-MM-DD)	2009-12-28
Name	Andrew Babcock	Registration Number	44517

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6943750
Issue Date: September 13,2005
Application No. 10051141
Filed: January 22,2002
Attorney Docket No. 47176-00621

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

This is a decision on the electronic petition, filed December 28,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 28,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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P.O. Box 1450
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JENKINS, WILSON, TAYLOR & HUNT, P. A.
3100 TOWER BLVD
SUITE 1200
DURHAM NC 27707

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OFFICE OF PETITIONS

In re Application of	:
Zhou et al.	: NOTICE
Patent 6,876,724	:
Application No. 10/051,183	:
Filed: January 22, 2002	:
Issued: April 5, 2005	:

This is a notice regarding your request filed on June 30, 2006, for acceptance of a fee deficiency submission under 37 CFR 1.28 (c).

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

The change in status to a large entity has been entered and made of record. This Notice is not intended to imply that the USPTO conducted any investigation of this matter.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STANLEY P. FISHER
REED SMITH HAZEL & THOMAS LLP
SUITE 1400
3110 FAIRVIEW PARK DRIVE
FALLS CHURCH VA 22042-4503

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NOV 18 2004

OFFICE OF PETITIONS

In re Patent No. 6,816,222
Issued: November 9, 2004
Application No. 10/051,185
Filed: January 22, 2002
Attorney Docket No. HITA.0153

ON PETITION

This is a decision on the petition filed November 8, 2004, requesting withdrawal of the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

Unfortunately, the petition did not reach the appropriate official for decision within sufficient time to avert issuance of the application into a patent.[1] Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. Withdrawal of an application from issue after payment of the issue fee may not be effective to avoid publication of application information.

The information disclosure statement (IDS) has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(l).

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

The patented file is being referred to Files Repository.

Karen Creasy

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

[1]The instant petition was received in the Office of Petitions on November 17, 2004.

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P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 20 2010

OFFICE OF PETITIONS

Morrison & Foerster, LLP
1650 Tysons Boulevard
Suite 400
McLean, VA 22102

In re Application of
Terry M. Turpin et al.
Application No. 10/051,229
Filed: January 22, 2002
Attorney Docket No. 509622000700

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 24, 2009.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on December 2, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Tarolli, Sundheim, Covell & Tummino, LLP
1300 East Ninth Street, Suite 1700
Cleveland, OH 44114

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Paper No. 7

FLIESLER DUBB MEYER & LOVEJOY LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO, CA 94111

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MAY 1 4 2003

OFFICE OF PETITIONS

In re Application of :
Lyle Smith et al :
Application No. 10/051,237 : DECISION GRANTING PETITION
Filed: January 18, 2002 : UNDER 37 CFR 1.137(f)
Attorney Docket No. LISP-01054USO :

This is a decision on the petition, filed May 5, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

The instant nonprovisional application is the subject of an application filed in a foreign country on January 16, 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(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). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be

construed as meaning that "the entire delay in filing the required reply [notification of foreign filing under 35 U.S.C. § 122(b)(2)(B)(iii)] until the filing of a grantable petition was unintentional." Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 21, 2003 accompanies this decision on petition.

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

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 2811 for examination in due course.

Frances Hicks

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

cc:

Sarah Barone Schwartz
Quirk & Tratos
Suite 500 North
3773 Howard Hughes Parkway
Las Vegas, NV 89109

UNITED STATES PATENT AND TRADEMARK OFFICE

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

November 6, 2003

Robert J. Schaap
21241 Ventura Blvd., Suite 188
Woodland Hills, CA 91364-2109

In re application of:
Brian Jones DECISION ON PETITION
Serial No.: 10/051,242
Filed: December 12, 2000
For: LOW WEIGHT HIGH PERFORMANCE COMPOSITE
VESSEL AND METHOD OF MAKING SAME

This is a decision on the petition received on September 2, 2003, to withdraw the holding of abandonment in the above-identified application.

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

On September 2, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney never received the Notice to File Corrected Application Papers mailed on February 21, 2002.

The petition is hereby GRANTED.

The drawings received on September 2, 2003, will be used to complete the above application for release to Technology Center 3727.

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

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

Doshie E. Day
Program Management Assistant
Office initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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www.uspto.gov

November 6, 2003

Robert J. Schaap
21241 Ventura Blvd., Suite 188
Woodland Hills, CA 91364-2109

In re application of:
Brian Jones DECISION ON PETITION
Serial No.: 10/051,242
Filed: December 12, 2000
For: LOW WEIGHT HIGH PERFORMANCE COMPOSITE
VESSEL AND METHOD OF MAKING SAME

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

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

Doshie E. Day
Program Management Assistant
Office initial Patent Examination

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ALEXANDRIA, VA 22313-1450
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MAIL

Paper No. 7

Mark G. Kachigian
HEAD, JOHNSON & KACHIGIAN
228 West 17th Place
Tulsa, Oklahoma 74119

APR 14 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Russell W. Teubner
Application No. 10/051,247
Filed: January 18, 2002
For: SYSTEM, METHOD AND APPARATUS TO ALLOW COMMUNICATION BETWEEN CICS AND NON-CICS SOFTWARE APPLICATIONS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 26, 2004.

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

The request filed March 26, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: WINSTEAD, SECHREST AND MINICK, P.C.
406 South Boulder, Suite 450
Tulsa, Okahoma 74103

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. 11

Sonnenschein
Sonnenschein Nath & Rosenthal
One Metropolitan Square
Suite 3000
St. Louis, MO 63102

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OFFICE OF PETITIONS

In re Application of :
Tsutomu Tanaka et al. :
Application No. 10/051,267 : ON PETITION
Filed: January 18, 2002 :
Attorney Docket No. 9792909-5359 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 30, 2003, to revive the above-identified application.

The petition is **Granted**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner in reply to the final Office action mailed March 20, 2003, which set a shortened statutory period for reply of three months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on June 21, 2003.

The application file is being forwarded to Technology Center AU 2811 for processing the Request for Continued Examination pursuant to 37 CFR 1.114 filed with the instant petition.

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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DEC 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Atsushi Shimbo	:	LETTER REGARDING
Application No. 10/051,280	:	PATENT TERM ADJUSTMENT
Filed: January 22, 2002	:	
Atty Docket No. 04284.0856	:	

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed September 9, 2005, notifying the Office of an error in applicant's favor in the initial determination of patent term adjustment. Applicant states that the initial determination of patent term adjustment for this case should be "548" days, not "697" days.

The request for correction of the initial determination of patent term adjustment (PTA) is **granted**. The determination of PTA at the time of the mailing of the Notice of Allowance is five hundred forty-eight (548) days.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is FIVE HUNDRED FORTY-EIGHT (548) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 16, 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 697 days. Applicant discloses that the Office did not consider applicant's delay of 59 days resulting from filing an amendment in response to the Office action on April 18, 2005.

Applicant is correct. A review of the application history confirms that a period of reduction for applicant delay in replying to the Office action mailed November 18, 2004 should have been entered. Pursuant to § 1.704(b), the record should reflect a reduction of 59 days, counting the number of days beginning on February 18, 2005 to April 18, 2005, for applicant's delay in filing a response to the non-final rejection mailed November 18, 2004.

Moreover, the entry of a period of adjustment of 90 days for Office delay is incorrect. See § 1.703(a)(3). This entry was based on the aforementioned amendment having been filed on November 18, 2004; however, as previously stated, the amendment was filed on April 18, 2005. Thus, the Office did not delay within the meaning of § 1.702(a)(2). The Office mailed the notice of allowance within four months, on June 16, 2005.

Accordingly, the PAIR record has been corrected to show a total of 607 days of Office delay and 59 days of applicant delay.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is FIVE HUNDRED FORTY-EIGHT (548) days.

As this letter was submitted as an advisement to the Office of an error in Applicant's favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The fee submitted is being refunded to Deposit Account No. 06-0916, as authorized. The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office. See Comment 43, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000).

The Office of Patent Publication has been advised of this decision. The application is, thereby, being forwarded to the Office of Patent Publication for issuance of the application.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

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VERIZON
PATENT MANAGEMENT GROUP
1515 N. COURTHOUSE ROAD
SUITE 500
ARLINGTON VA 22201-2909

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FEB 25 2008

OFFICE OF PETITIONS

In re Application of :
Mark A. **FELKEY** et al. :
Application No. 10/051,282 : DECISION ON PETITION
Filed: January 22, 2002 :
Attorney Docket No. **WMA01001** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 09, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed February 09, 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. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Accordingly, the application became abandoned on May 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $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 Technology Center AU 3627 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

David Bucci
Petitions Examiner
Office of Petitions

cc: **PHOUPHANOMKETH DITTHAVONG**
918 PRINCE STREET
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 7

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MAR 1 4 2003

OFFICE OF PETITIONS

BENNETT JONES LLP
4500 Bankers Hall East
855 - 2nd Street SW
Calgary AB T2P 4K7 CA CANADA

AIRMAIL

In re Application of
G. Balan, Donald, D. Balan, Aldea, and DeSouza
Application No. 10/051,284
Filed: January 22, 2002
Attorney Docket No. 45401-56
For: HYDROGEN GENERATING APPARATUS AND COMPONENTS THEREFOR

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

This is a decision on the petition under 37 CFR 1.47(a), filed August 26, 2002, and received in the Office of Petitions on October 31, 2002.

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

Any request for reconsideration under 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 titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)." Failure to respond will result in abandonment of the application. Extensions of time are available and will be governed by 37 CFR 1.136(a).

The instant petition was filed in response in to the "Notice to File Missing Parts of Nonprovisional Application" (the "Notice"), mailed February 26, 2002, which indicated that the filing fee had not been paid, that a signed oath or declaration was missing, and that a surcharge of $65.00 was due, consequently. The Notice set forth an extendable period for reply of two months from its mailing date. On August 26, 2002, in response to the Notice, petitioner filed the instant petition and a "Combined Declaration and Power of Attorney." Petitioner also remitted the $130.00 surcharge and the filing fee.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and,

(4) a statement of the last known address of the non-signing inventor.

The instant petition lacks items (2) and (4).

As to item (2), the declaration filed was improper as there is no signature or citizenship provided for inventor Eugene Aldea. Any rended petition filed must provide a declaration that provides this information inventor Aldea, or provides proof that inventor Aldea cannot be reached or refuses to sign the oath or declaration..

As to item (4), petitioner did not provide a statement of last known address for the nonsigning inventors. *The Manual of Patent Examining Procedure* ("MPEP"), Section 409.03(e) states, in pertinent part, that [a]n application filed pursuant to 37 CFR 1.47 must state the last known address of the nonsigning

inventor." The instant petition did not provide the last known addresses for inventor DeSouza or inventor Aldea. Any renewed petition filed must provide the last known address for inventors DeSouza and Aldea.

Deposit account 02-2057 will be assessed $130.00 for the instant petition fee.

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 South Clark Place
Arlington, Virginia

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

Bennett Jones, LLP
4500Bankers Hall East
855-2nd Street SW
Calgary AB T2P 4K7 CA
CANADA

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APR 0 2 2003

OFFICE OF PETITIONS

In re Application of
G. Balan, Donald, D. Balan, Aldea, and DeSouza
Application No.: 10/051,284
Filed: January 22, 2002
Attorney Docket No: 45401-56
For: HYDROGEN GENERATING APPARATUS AND COMPONENTS THEREFOR

DECISION ACCORDING STATUS UNDER RULE 47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed April 1, 2003.

The renewed petition is **GRANTED**.

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

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on February 26, 2002, indicating that petitioner neglected 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 the mailing date of the Notice and indicated that extensions of time for reply were available pursuant to 37 CFR 1.136(a). On August 26, 2002, petitioner filed a petition under 37 CFR 1.47(a), which was dismissed by a decision mailed March 14, 2003. The instant renewed petition was filed on April 1, 2003.

By statements and documentary evidence, petitioner has established inventor DeSouza unavailable to join the above-cited application. The above-cited application is, therefore, 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 regarding this matter should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Mario DeSouza
PO Box 134
Dunmore
Alberta, Canada T0J1A0

AIRMAIL

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APR 0 2 2003

OFFICE OF PETITIONS

In re Application of :
G. Balan, Donald, D. Balan, Aldea, and DeSouza :
Application No.: 10/051,284 : LETTER
Filed: January 22, 2002 :
For: HYDROGEN GENERATING APPARATUS AND :
COMPONENTS THEREOF :

Dear Mr. DeSouza:

You are named as a joint inventor in the above-identified United States patent application filed under 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 as a joint inventor.

As you are 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 Kenya A. McLaughlin, Petitions Attorney, at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington, DC area).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Bennett Jones, LLP
4500Bankers Hall East
855-2nd Street SW
Calgary AB T2P 4K7 CA
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

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

In re Patent No. 7,011,498 : DECISION REGARDING PTA
Issued: March 14, 2006 : and NOTICE OF INTENT TO ISSUE
Application No. 10/051,304 : CERTIFICATE OF CORRECTION
Filed: January 22, 2002 :
Atty. Dkt. No.: 13232.00023 :

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed March 31, 2006.

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

The above-identified application matured into U.S. Patent No. 7,011,498 on March 14, 2006. The patent issued with a PTA of 417 days. The instant application for PTA was timely filed March 31, 2006. Patentees argue that the adjustment of 488 set forth in the Determination of Patent Term Adjustment under 35 USC 154(b) mailed October 4, 2005 was improperly reduced 71 days in connection with a "MISCELLANEOUS INCOMING LETTER" filed January 3, 2006.

Review of the application history reveals that patentees are correct. The Adjustment of 488 days set forth in the Determination of Patent Term Adjustment was improperly reduced 71 days, as argued by patentees.

The "MISCELLANEOUS INCOMING PAPER" filed January 3, 2006 was in fact a notification of change of entity status. Notification of a change of entity status is not a failure to engage in reasonable efforts to conclude prosecution (or processing) within the meaning of 37 CFR 1.704(c)(10). *See*, MPEP 2732 and *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001).

Thus, at the time of issuance, the patent was entitled to an adjustment of 488 days, as argued by patentee.

Receipt is hereby acknowledged of the required application fee of $200.00. The request for refund of the application is hereby dismissed as submission of the application fee is a prerequisite to treatment on the merits for any application submitted pursuant to 37 CFR 1.705 and is not subject to refund.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 488 days.

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

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

Enclosure: Draft Certificate of Correction

Day : Monday
Date: 5/22/2006

PALM INTRANET

Time: 12:36:36

PTA Calculations for Application: 10/051304			
Application Filing Date:	01/22/2002	PTO Delay (PTO):	579
Issue Date of Patent:	03/14/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	162
Post-Issue Petitions:	0	Total PTA (days):	488
PTO Delay Adjustment:	71		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
55	05/22/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	71		
50.5	02/22/2006	PTA 36 MONTHS			
50	03/14/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
49	01/25/2006	EXPORT TO FINAL DATA CAPTURE			
48	01/24/2006	DISPATCH TO FDC			
47	01/16/2006	FINISHED INITIAL DATA CAPTURE			
46	01/03/2006	MISCELLANEOUS INCOMING LETTER		71	
45	01/13/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
44	01/03/2006	STATEMENT FILED INDICATING A LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS			
43	01/03/2006	ISSUE FEE PAYMENT VERIFIED			
42	01/03/2006	ISSUE FEE PAYMENT RECEIVED			
41	10/11/2005	EXPORT TO INITIAL DATA CAPTURE			
40	10/04/2005	MAIL NOTICE OF ALLOWANCE			
39	10/03/2005	ISSUE REVISION COMPLETED			
38	10/03/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
37	10/03/2005	NOTICE OF ALLOWABILITY			
36	08/15/2005	CORRESPONDENCE ADDRESS CHANGE			
35	08/15/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
34	08/15/2005	DATE FORWARDED TO EXAMINER			
33	08/02/2005	RESPONSE AFTER NON-FINAL ACTION		91	27
32	08/02/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
		INCOMING LETTER PERTAINING TO THE			

31	01/27/2005	DRAWINGS			
30	03/17/2005	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
29	02/11/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
27	02/03/2005	MAIL NON-FINAL REJECTION			
26	02/02/2005	NON-FINAL REJECTION			
25	01/04/2005	CASE DOCKETED TO EXAMINER IN GAU			
24	12/02/2004	DATE FORWARDED TO EXAMINER			
23	11/22/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
22	11/22/2004	WORKFLOW INCOMING AMENDMENT IFW			
21	10/21/2004	MAIL RESTRICTION REQUIREMENT	579		-1
20	10/20/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
19	05/21/2003	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
18	05/21/2003	NEW OR ADDITIONAL DRAWING FILED			
17	05/25/2004	CORRESPONDENCE ADDRESS CHANGE			
16	05/25/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
15	04/16/2004	TRANSFER INQUIRY TO GAU			
14	04/07/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	08/25/2002	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
12	08/20/2002	CASE DOCKETED TO EXAMINER IN GAU			
11	06/28/2002	APPLICATION DISPATCHED FROM OIPE			
10	06/11/2002	APPLICATION IS NOW COMPLETE			
9	05/21/2002	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
8	05/21/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	05/21/2002	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
6	02/21/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	02/15/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
3	02/08/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	01/30/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			

1	01/22/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,011,798 B2
DATED	:	March 14, 2006
INVENTOR(S)	:	Vos, 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 417 days

Delete the phrase "by 417 days" and insert – by 488 days--

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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

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JAN 1 0 2006

OFFICE OF PETITIONS

In re Application of :
Ziyu Dai et al :
Application No. 10/051,307 : ON PETITION
Filed: January 22, 2002 :
Attorney Docket No. 059440-0141

This is a decision on the petition, filed January 9, 2006, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

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

Telephone inquiries 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. 8

Smith, Gambrell & Russell, LLP
1850 M Street, N.W., Suite 800
Washington, D.C. 20036

JAN - 8 2003

#8

In re Application of: :
Nakamura *et al.* :
Application No. 10/051,310 : DECISION ON PETITION
Filed: January 22, 2002 : TO MAKE SPECIAL
Attorney Docket No. 33216M534833 :

This is a decision on the petition under 37 C.F.R. § 1.102, filed October 25, 2002, to make the above-identified application special under the accelerated examination procedure set forth in M.P.E.P.§ 708.02, Item VIII: Accelerated Examination.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P., Section 708.02, Item VIII, must be accompanied by:

(a) the required petition fee set forth in 37 C.F.R. § 1.17(h),
(b) a statement that all claims are directed a single invention or in the event that the United States Patent and Trademark Office determines that all the claims presented are not obviously directed to a single invention, applicant will make an election without traverse as a prerequisite to the grant of special status,
(c) a statement that a pre-examination search has been made by the inventor, attorney, agent, professional searcher, etc., and a listing of the field of search by class and subclass,
(d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and
(e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over these references.

The petition includes a showing that complies with the above requirements to permit the application to be made special under the accelerated examination procedure.

Accordingly, the petition is **granted**.

The application is being forwarded to the examiner for accelerated examination in accordance with the M.P.E.P. § 708.01.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Ed Glick at (703) 308-4858.

Edward J. Glick, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SMITH GAMBRELL & RUSSELL, L.L.P.
Suite 800
1850 M Street, N.W.
Washington, DC 20036

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FEB 2 0 2004

OFFICE OF PETITIONS

In re Application of
Hiroyuki Nakamura, et al.
Application No. 10/051,310
Filed: January 22, 2002
Attorney Docket No. 33216M534833

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 19, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 28, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 2817 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).

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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3/30/05

In re Application of	:	
WOOD, BRADFORD RUSSELL, et al.	:	NOTICE OF WITHDRAWAL
Serial No.10/051,314	:	FROM ISSUE
Filed: January 18, 2002	:	UNDER 37 CFR 1.313(b)
For: SOIL CLEANING SYSTEMS AND METHODS	:	

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.

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 Duane Smith (571) 272-1166.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

JStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Guy McLung
PMB 347
16690 Champion Forest Drive
Spring TX 77379-7023

cc: Allowed Files—Pk3-910

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260 SHERIDAN AVENUE
SUITE 410
PALO ALTO CA 94306-2047

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DEC 31 2007

OFFICE OF PETITIONS

In re Application of :
LOLAYEKAR et al. :
Application No. 10/051,339 : DECISION ON PETITION
Filed: 01/18/2002 :
Attorney Docket No. MARA-01006US0 SBS :

This is a decision on the petition under 37 CFR 1.181, filed November 27, 2007, to withdraw the holding of abandonment for the above-identified application.

On July 26, 2007, the Office mailed a Notice of Allowance and Fee(s) Due, which set a three-month statutory period for reply. In the absence of a timely filed response, the application was held abandoned on October 27, 2007. A Notice of Abandonment was mailed on November 20, 2007.

In the present petition, the practitioner requested that the Office withdraw the holding of abandonment due to non-receipt, remail the Notice of Allowance, and restart the period for reply.

A review of the record indicates no irregularity in the mailing of the Notice of Allowance, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice of Allowance was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice of Allowance was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP 711.03(c)(I)(A). For example, if a three-month period for reply was set in the non-received Office communication, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office communication must be submitted as documentary proof of non-receipt of the Office communication. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail (*e.g.* if the practitioner has a history of not receiving Office communications).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner for applicants submitted copies of docket records where the Notice of Allowance would have been entered had it been received and docketed. The practitioner attested to the fact that a search of the file jacket and docket records indicated that the Notice of Allowance was not received. Accordingly, applicants presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

Technology Center Art Unit 2154 been advised of this decision. The matter is being referred to the Technology Center's technical support staff for mailing of a new Notice of Allowance. The three (3) month statutory time period for responding to the Notice of Allowance will be set to run from the date of the re-mailing of the Notice of Allowance.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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SEP 1 8 2005

Milton S. Sales
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

In re Application of :
Kenneth A. Parulski et al :
Application No. 10/051,342 :
Filed: January 18, 2002 :
For: SYSTEM, METHOD AND SOFTWARE PRODUCT FOR ORDERING MERCHANDISE OVER A COMMUNICATION NETWORK FROM A PLURALITY OF DIFFERENT MERCHANDISE PROVIDERS HAVING VARIOUS BUSINESS RELATIONSHIPS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicants' petition under 37 CFR 1.1.37 (b) taken as a Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on September 23, 2004. There is no fee for this petition.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the Office action dated February 2, 2004 and a Notice to that effect was mailed on September 14, 2004.

Applicants include a response filed by facsimile transmission. The copy of the response includes a Certificate of Transmission dated March 16, 2004.

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).

The petition fails to meet requirement (2) above. Under requirement (2), applicants have provided no 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 the instant case, a personal statement by Paula West, the certifying official of the facsimile, is required.

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."

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6619

RARjwk: 7/7/05

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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Milton S. Sales
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

COPY MAILED

JAN 27 2006

OFFICE OF PETITIONS

In re Application of
Parulski et al.
Application No. 10/051,342
Filed: January 18, 2002
Title: System, Method and Software Product for Ordering Merchandise over a Communication Network from a Plurality of Different Merchandise Providers Having Various Business Relationships

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed October 28, 2005.

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

This application was held abandoned May 2 , 2004 for failure to timely reply to the Final Office Action mailed on February 2, 2004. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed September 14, 2004.

Petitioner asserts that a reply to the Final Office Action was timely submitted via facsimile on March 16, 2004 . As evidence, petitioner has submitted a copy of the reply which contains a certificate of mailing pursuant to 37 CFR 1.8 and a statement which attests to personal knowledge of the previous timely transmission.

The response submitted March 16, 2004 has not been located in the Office, however, in view of the evidence submitted, the response is deemed timely. Petitioner submitted a second copy of the amendment after final on August 17, 2004.

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

Accordingly the $1500.00 petition to revive fee and the untimely 3 month extension of time fee will be refunded to deposit account 05-0225

The application file is being forwarded to the Technology Center 3600 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MILTON S. SALES
PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER NY 14650-2201

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MAY 25 2006

OFFICE OF PETITIONS

In re Application of
Kenneth A. Parulski et al.
Application No. 10/051,342
Filed: January 18, 2002
Attorney Docket No. 84002F-P

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),[1] filed March 29, 2006, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed February 2, 2004. A shortened statutory period of three months was set for replying to the Final Office Action. Petitioners were notified in an advisory action mailed February 16, 2006 that a response filed August 17, 2004 did not place the application in condition for allowance. Thus, the application became abandoned May 3, 2004. Accordingly, a Notice of Abandonment was mailed March 13, 2006.

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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)).

In response to the Final Office Action mailed February 2, 2004, petitioner has submitted a Request for Continued Examination (RCE) and requests that the amendment previously submitted on August 14, 2004 be considered as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 3676 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Mailed: 7/18/05

dss

Paper No.

In re application of
Timothy W. Rawlings
Serial No. 10,051,352
Filed: January 18, 2002
For: FOLDABLE PRINTABLE SUBSTRATE

DECISION ON
PETITION

This is a decision on the PETITION TO WITHHOLD ANY HOLDING OF ABANDONMENT, filed March 04, 2005. Petitioner asserts that the Office Action mailed June 07, 2004 was never received by their office.

DECISION

A review of the petitioner's evidence provided with the instant petition indicates that the request does have merit. To summarize, an Office Action was mailed by the Office on June 07, 2004 to the Associate Power of Attorney. Applicants' filed an Associate Power of Attorney, which was received by the Office on April 28, 2004 but a change in the correspondence address was never requested. The Office Action mailed June 07, 2004 was returned by the Associate Power of Attorney on June 17, 2004 as being received in error.

Therefore, applicants' have established convincingly that the Office Action dated June 07, 2004 was not received at the proper address of record, i.e. the attorneys' office of Douglas S. Foote, Esq..

Therefore,the abandonment is hereby withdrawn, and the application is returned to pending status. The application will be returned to the examiner for prompt remailing of the Office Action of June 07, 2004 and restarting the period of response from the remail date thereof.

The Petition is hereby Granted.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Douglas S. Foote, Esq.
NCR Corporation
Law Department ECD-2
101 West Schantz Avenue
Dayton, OH 45479-0001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of	:	
Chio Fai Wong	:	NOTICE OF WITHDRAWAL
Serial No. 10/051,362	:	FROM ISSUE
Filed: January 22, 2002	:	UNDER 37 CFR 1.313(b)
For: CRYSTALLIZED BOTTLENECK OF POLY-	:	
ESTER BEER BOTTLE AND MANUFACTURING	:	
METHOD OF THE SAME	:	

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.

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 at Harold Pyon (571) 272-1498.

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

VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP
P. O. Box 34385
Washington, DC 20043-9998

cc: Allowed Files—Pk3-910

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APR 26 2004
TC 1700

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APR 28 2006

OFFICE OF PETITIONS

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of
James D. Crapo et al
Application No. 10/051,367
Filed: January 22, 2002
Attorney Docket No. 2661-22

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 12, 2005.

The petition is **NOT APPROVED**.

The request cannot be approved because the reason stated is unclear and not in compliance with 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 Karen Creasy at 571-272- 3208.

Denise Pothier
Petitions Examiner
Office of Petitions

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

Paper No. 4

ROBERTS ABOKHAIR & MARDULA, LLC
SUITE 1000
11800 SUNRISE VALLEY DR.
RESTON VA 20191

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JUL 18 2002

OFFICE OF PETITIONS

In re Application of	:	
Joseph A.A.M. Tourne	:	
Application No. 10/051,418	:	DECISION DISMISSING
Filed: 30 October, 2001	:	PETITION
Attorney Docket No. 2654-001	:	

This is a decision on the petition filed on 17 May, 2002, requesting that the "Notice to File Missing Parts of Nonprovisional Application" mailed 4 April, 2002, in the above-identified application be vacated to the extent that it states that Page 8 of the specification appeared to have been omitted from the application.

The application was filed on 30 October, 2001. However, on 4 April, 2002, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application" stating that the application had been accorded a filing date of 30 October, 2001, and advising applicants that, *inter alia*, Page 8 of the specification (description and claims) appeared to have been omitted from the application.

In response, on 17 May, 2002, the present petition was filed, along with a petition fee of $130.00. Petitioner asserts that Page 8 was filed with the other application papers deposited on 30 October, 2001, 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 30 October, 2001, and bears the above-identified application number. The postcard identifies the application by the sole inventor's

name and invention title, and acknowledges receipt of, *inter alia*, 11 pages of specification, claims, and abstract. Petitioners request that the application, including Page 8 of the specification, be accorded a filing date of 30 October, 2001.

A review of the record reveals that no Page 8 of the specification has been located among the application papers deposited on 30 October, 2001. However, the evidence is convincing that the application papers deposited on 30 October, 2001, included Page 8 of the specification, which was subsequently misplaced in the Office.

The petition is dismissed, however, because petitioner has not supplied a copy of Page 8 of the specification originally filed. Petitioners must therefore supply a copy of Page 8 of the 11 pages of specification filed on 30 October, 2001. The petition is therefore dismissed without prejudice to reconsideration pending submission of a copy of Page 8.

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 not 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 30 October, 2001, using only the application papers filed on that date.

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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

ROBERTS ABOKHAIR & MARDULA, LLC
SUITE 1000
11800 SUNRISE VALLEY DR.
RESTON VA 20191

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AUG 0 9 2002

OFFICE OF PETITIONS

In re Application of	:	
Joseph A.A.M. Tourne	:	
Application No. 10/051,418	:	DECISION GRANTING
Filed: 30 October, 2001	:	PETITION
Attorney Docket No. 2654-001	:	

This is a decision on the request for reconsideration under 37 CFR 1.53 filed on 24 July, 2002, requesting that the "Notice to File Missing Parts of Nonprovisional Application" mailed 4 April, 2002, in the above-identified application be vacated to the extent that it states that Page 8 of the specification appeared to have been omitted from the application.

The application was filed on 30 October, 2001. However, on 4 April, 2002, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application" stating that the application had been accorded a filing date of 30 October, 2001, and advising applicants that, *inter alia*, Page 8 of the specification (description and claims) appeared to have been omitted from the application. The petition filed on 17 May, 2002, was dismissed on 16 July, 2002, because petitioner had not provided a copy of Page 8 of the specification as originally filed.

In response, on 24 July, 2002, the present request for reconsideration was filed. Petitioner again asserts that Page 8 was filed with the other application papers deposited on 30 October, 2001, 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 May, 2002. The

postcard receipt shows an Office date stamp of 30 October, 2001, and bears the above-identified application number. The postcard identifies the application by the sole inventor's name and invention title, and acknowledges receipt of, *inter alia*, 11 pages of specification, claims, and abstract. Petitioners request that the application, including Page 8 of the specification, be accorded a filing date of 30 October, 2001. A copy of Page 8 of the specification was supplied with the present request for reconsideration filed on 24 July, 2002.

A review of the record reveals that no Page 8 of the specification has been located among the application papers deposited on 30 October, 2001. However, the evidence is convincing that the application papers deposited on 30 October, 2001, included Page 8 of the specification, which was subsequently misplaced in the Office.

The application will be processed and examined using the application papers filed on 30 October, 2001, and the copy of Page 8 of the specification supplied on 24 July, 2002.

The $130.00 petition fee filed on 17 May, 2002, will be credited to counsel's deposit account, No. 18-1579.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 30 October, 2001, using the application papers filed on that date and the copy of Page 8 of the specification supplied on 24 July, 2002.

Telephone inquires should be directed to the undersigned at 703-308-6916.

Douglas I. Wood
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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Robert Kowert
Conley, Rose & Tayon, P.C.
P.O. Box 398
Austin, TX 78767

MAILED

MAR 23 2006

TECHNOLOGY CENTER 2100

In re Application of: Amirisetty, et al.
Application No. 10/051,441
Attorney Docket No. 5181-92801
Filed: 01/18/2002
For: METADATA-AWARE ENTERPRISE APPLICATION INTEGRATION FRAMEWORK FOR APPLICATION SERVER ENVIRONMENT

DECISION ON PETITION FOR SUPERVISORY REVIEW REGARDING FINALITY OF RESTRICTION REQUIREMENT UNDER 37 CFR §1.144

This is in response to the petition filed on November 16, 2005, under 37 CFR 1.144 requesting supervisory review of the finality of a restriction requirement mailed on September 20, 2005. Note, a petition under 37 CFR §1.144 will not be considered if reconsideration of the requirement was not previously requested.

The petition is **GRANTED**.

RECENT PROSECUTION HISTORY

(1) A restriction requirement was mailed on June 27, 2005, in which claims 1-88 were subject to restriction requirement.

(2) On July 15, 2005 a response to the restriction requirement was filed in which applicant provisionally elected with traverse. Applicant provided reasons in support of the traversal, including a discussion of M.P.E.P. § 806.05(d) regarding a proper restriction for inventions disclosed as subcombinations usable together in a single combination.

(3) On September 20, 2005, the Examiner issued a first office action on the merits, in response to Applicant's election, wherein claims 36-50 and 62-72 were withdrawn. This office action determined the requirement for restriction to be proper and therefore effectively made the requirement FINAL.

(4) On November 16, 2005, 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:

(1) withdrawal of the restriction requirement of June 27, 2004; and

(2) as a result of item (1), examination of all pending claims.

BASIS

Petitioner provides various arguments in support of the withdrawal of the restriction requirement including reference to M.P.E.P. § 806.05(d), which states:

> Two or more claimed subcombinations, disclosed as usable together in a single combination, and which can be shown to be separately usable, are usually **>restrictable when the subcombinations do not overlap in scope and are not obvious variants<.
> The examiner must show, by way of example, that one of the subcombinations has utility other than in the disclosed combination.
> Care must be taken to determine if the subcombinations are generically claimed.
> Where subcombinations as disclosed and claimed are both (a) species under a claimed genus and (b) related, then the question of restriction must be determined by both the practice applicable to election of species and the practice applicable to related inventions. If restriction is improper under either practice, it should not be required (MPEP § 806.04(b)).
> ** If applicant proves or provides an argument, supported by facts, that the other use, suggested by the examiner, cannot be accomplished or is not reasonable, the burden is on the examiner to document a viable alternative use or withdraw the requirement.

In addition, note M.P.E.P. § 806.03 sets forth:

> Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are but different definitions of the same disclosed subject matter, varying in breadth or scope of definition.

OPINION

Petitioner states that inventions Group I (claims 1-35, 51-61 and 73-88) and Group II (claims 36-50 and 62-72) are not disclosed as subcombinations usable together in a single combination, as stated. Applicant admits that the claims 1, 18, 51 and 73 vary in scope from claims 36 and 62, however, the disclosure clearly does not describe the embodiments of claims 36 and 62 as separate subcombinations (from that of claims 1-35, 51-61 and 73-88) being usable together in a single combination. In fact, the independent claims recite similar inventions not separate subcombinations, and cannot be characterized as such. For example, the embodiment of method claim 18 (Group I) can be carried out in the embodiment of the system of claim 36 (Group II).

Further, since MPEP 806.05(d) requires that the subcombinations "do not overlap in scope". As identified by Applicant above, there is clearly overlap in scope between the claims of Group I and Group II. Overlap in scope is evident by way of comparison of claim 36 (Group II) with that of claim 51 (Group I) wherein both claims recite similar systems.

Thus, and in accordance with M.P.E.P. §806.03 and §806.05(d), the restriction requirement of June 27, 2005 between Group I (claims 1-35, 51-61 and 73-88) and Group II (claims 36-50 and 62-72), for "subcombinations usable together in a single combination" is deemed to be improper.

The petition is **GRANTED**. The previous action and election requirement is **WITHDRAWN** and a new office action on the pending claims will be forthcoming.

The application is being forwarded to the Examiner for appropriate action i.e. prosecution of all pending claims, consistent with this decision.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 9

Richard C. Gilmore
Workman, Nydegger & Seeley
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60 East South Temple
Salt Lake City UT 84111

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JUL 2 3 2002

OFFICE OF PETITIONS

In re Application of
Stanford, Winter, Smith & Monsen
Application No.: 10/051,454
Filed: January 18, 2002
Attorney Docket No.: 15499.174.1
For: FLEXURE RESISTANT BASE PLATE FOR A BASKETBALL GOAL ASSEMBLY

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed April 18, 2002 (certificate of mailing date April 11, 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 18, 2002 without an executed oath or declaration and filing fees. Accordingly, on February 11, 2002, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed, requiring an executed oath or declaration and filing fees, and a surcharge for their late filing.

In response, on April 19, 2002 (certificate of mailing date April 11, 2002), a declaration executed by 3 of 4 joint inventors, the surcharge, application filing fees, the petition fee, and the instant petition were filed.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks items (1) and (2) above.

As to item (1), Applicants have failed to establish that the non-signing inventor, Charles Monsen, cannot be located. Petitioners state that an attempt to send Mr. Monsen the application papers at his last known address was unsuccessful because the addressee had moved.

Where inability to find or reach a non-signing inventor is alleged, an affidavit or declaration of

facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the non-signing inventor.

The affidavit or declaration of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, any inquiries of local telephone directories, telegrams, searches of Internet databases, such as LEXIS, etc., that support a finding that the non-signing inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

A showing of diligence is critical to obtaining Rule 47 status when it is alleged that an inventor cannot be located or reached.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The citizenship of each inventor must be included on the oath or declaration. As listing the citizenship for each inventor is a statutory requirement under 35 USC 115, it cannot be waived. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of the non-signing inventor is REQUIRED. See MPEP 409.03(a).

The Revocation and Power of Attorney and Change of Address, both filed May 22, 2002, have been entered and made of record. All future correspondence will be mailed the above-identified correspondence address of record.

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

By mail:	Commissioner for Patents Box DAC Washington, D.C. 20231
By facsimile:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 12

Richard C. Gilmore
Workman, Nydegger & Seeley
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OCT 0 7 2002

OFFICE OF PETITIONS

In re Application of
Stanford, Winter, Smith & Monsen
Application No.: 10/051,454
Filed: January 18, 2002
Attorney Docket No.: 15499.174.1
For: FLEXURE RESISTANT BASE PLATE FOR A BASKETBALL GOAL ASSEMBLY

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a) filed September 23, 2002 via facsimile.

The petition is granted.

Petitioners have shown that the non-signing inventor, Charles Monsen, cannot be located. Specifically, the declarations of Ms. Barbara Keyt, Ms. Jolene Goff, Mr. Richard Gilmore, and Mr. Tyson Sharp establish that despite diligent efforts -- such as sending mailings, visiting a possible residence, and conducting Internet and telephone searches-- Mr. Monsen could not be reached. In addition, petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Charles Monsen
120 W 700 N
Brigham City, UT 84041

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OCT 0 7 2002

OFFICE OF PETITIONS

In re Application of :
Stanford, Winter, Smith & Monsen :
Application No.: 10/051,454 : LETTER
Filed: January 18, 2002 :
Attorney Docket No.: 15499.174.1 :
For: FLEXURE RESISTANT BASE PLATE FOR A BASKETBALL GOAL ASSEMBLY :

Dear Mr. Monsen.:

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

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

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

ATTORNEY OF RECORD: Richard C. Gilmore
Workman, Nydegger & Seeley
1000 Eagle Gate Tower
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Salt Lake City UT 84111

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

August 18, 2003

James L. Sonntag
Parsons Behle & Latimer
One Utah Center
201 South Main Street, Suite 1800
Post Office Box 45898
Salt Lake City, Utah 84145-0898

In re application of:
Jeanette C. Roberts et al DECISION ON PETITION
Serial No.: 10/051,463
Filed: January 18, 2002
For: PRODRUGS AND CONJUGATES OF THIOL- AND SELENOL-CONTAINING COMPOUNDS AND METHODS OF USE THEREOF

This is a decision on the petition received on August 20, 2002, to withdraw the holding of abandonment in the above-identified application.

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

On August 15, 2002, the office received a communication from the applicant of record. Enclosed was an acknowledgement that the attorney never received the Notice to File Missing Parts mailed on April 8, 2002.

The petition is hereby Granted.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing Parts mailed on April 8, 2002.

The application has been completed for release to Technology Center 1623.

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

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

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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COATS & BENNETT, PLLC
P O BOX 5
RALEIGH NC 27602

6/1/04

In re Application of: WILLIAMS, SCOTT G. :
Appl. No.: 10/051,488 : DECISION ON PETITION
Filed: Jan. 18, 2002 :
For: MULTIPURPOSE FOLDABLE CANDLE TOOL
Attorney's Docket # 4818-002

This is a decision on the petition filed on Mar. 15, 2006 by which petitioner requests supervisory review and withdrawal of the examiner's holding of abandonment for failure to place the dependent claims in independent form to avoid abandonment following the Decision on Appeal promulgated by the Board of Patent Appeals and Interferences (BPAI) on Aug. 12, 2005. The petition is considered pursuant to 37 CFR 1.181 and no fee is required.

The petition is dismissed.

In the petition, petitioner argues that the examiner's holding of abandonment was improper because petitioner believes the amendment filed on Dec. 5, 2005 would place the application in condition for allowance and the examiner could have issued an Office action to give the appellant another opportunity to address the deficiency.

The record shows that:

1) This application contains claims 1, 2, 4-16 and 18-24. In the Examiner's Answer of Jul. 1, 2004, the examiner rejected claims 1, 2, 4-12, 15, 16 and 18-24 and objected to dependent claims 13-14. No claims stand allowed.
2) On Aug. 12, 2005, the Board of Patent Appeals and Interferences (BPAI) issued a decision affirming the examiner's rejection of claims 1, 2, 4-8, 10-12, 15, 16 and 19-24 (see page 13 of the Decision). The Board also reversed the examiner's rejection to dependent claims 9 and 18. After the Decision was entered, the application was left with dependent claims 13 and 14 objected to by the examiner prior to the appeal and dependent claims 9 and 18 reversed by the Board under the appeal.
3) On Nov. 8, 2005, the examiner issued an Office action giving the appellant one month time period to present the dependent claims 9 and 18 in independent form to avoid abandonment. The Office action also indicated that no extension of time under 37 CFR 1.136(a) will be granted. Prosecution remains closed.
4) On Dec. 5, 2005, appellant filed an amendment canceling claims 1, 2, 4-8, 10-16 and 19-24 and adding new claims 25-42. The appellant also alleges that new independent claim 25 corresponds to previously pending claims 1 and 9, while new independent claim 39 corresponds to previously pending claims 15 and 18. New dependent claims 26 - 38 and

40 - 42 correspond to the previously pending dependent claims. Petitioner further argues that in the Board Decision, the Board reversed only the rejection of dependent claims 9 and 18. Petitioner also indicates that the newly added independent claims 25 and 39 include the limitations of allowable claims 9 and 18, respectively and new claims 25 - 42 stand in condition for allowance. In the amendment, the appellant requests the examiner to reconsider all rejections and allow the application.

5) On Jan. 31, 2006, the examiner issued a letter of abandonment because the appellant was given one month time period to place the dependent claims in independent form to avoid abandonment and that no extension of time would be granted, since prosecution was closed. In the abandonment letter, the examiner indicated that the new claims proposed on 12/05/05 would require further consideration.
6) On Mar. 15, 2006, the current petition was filed to request withdrawal of the holding of abandonment.

Discussion and Analysis

In the petition, petitioner states that when the Board overturned the rejection of a dependent claim and upheld the rejection of other dependent clams, the rules require that the allowable dependent claims be rewritten in independent form. This is correct in accordance with MPEP 1214.06 (I)[1]. Appellant was required to place the dependent claims 9 and 18 in independent form as clearly stated in the Office action of Nov. 8, 2005. However, in the response to the Office action, the appellant indicates that the dependent claim 9 was re-written as new independent claim 25. This is incorrect because the original appealed dependent claim 9 was dependent upon the dependent claim 7 which further dependent upon the appealed independent claim 1. In the independent claim 25, the appellant omitted the limitations of claim 7 which requires the inclusion of "a wick cutter, a wick dipper for engaging a candle wick and submerging the candle wick within melted wax to extinguish the candle wick, and a match holder for engaging and holding a match". Therefore, the content of current independent claim 25 is not the same as the dependent claim 9. This new independent claim 25 was never presented before the Board.

In the response filed on Dec. 5, 2005, the appellant indicates that the dependent claim 18 was re-written as new independent claim 39. This statement is correct because the original appealed

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[1] MPEP1214.06 [R-3] Examiner Sustained in Whole or in Part: I. NO CLAIMS STAND ALLOWED
The proceedings in an application or ex parte reexamination proceeding are terminated as of the date of the expiration of the time for filing court action. The application is no longer considered as pending. It is to be stamped abandoned and sent to abandoned files. In an ex parte reexamination proceeding, a reexamination certificate should be issued under 37 CFR 1.570. Claims indicated as allowable prior to appeal except for their dependency from rejected claims will be treated as if they were rejected. The following examples illustrate the appropriate approach to be taken by the examiner in various situations: (A) If claims 1-2 are pending, and the Board affirms a rejection of claim 1 and claim 2 was objected to prior to appeal as being allowable except for its dependency from claim 1, the examiner should hold the application abandoned. (B) If the Board or court affirms a rejection against an independent claim and reverses all rejections against a claim dependent thereon, ** after expiration of the period for further appeal, the examiner should proceed in one of two ways: (1) Convert the dependent claim into independent form by examiner's amendment, cancel all claims in which the rejection was affirmed, and issue the application; or (2) Set a 1-month time limit in which appellant may rewrite the dependent claim(s) in independent form. Extensions of time under 37 CFR 1.136(a) will not be permitted. If no timely reply is received, the examiner will cancel all rejected and objected to claims and issue the application with the allowed claims only.

dependent claim 18 was dependent upon the appealed independent claim 15. The independent claim 39 does contain all limitations of dependent claim 18 and independent claim 15.

Petitioner also questions that the status of the remaining dependent claims 2, 4-8, 10-12, 15, 16 and 19-24 and takes the position that amending the remaining dependent claims to depend from an allowable independent claim would place the application in condition for allowance. This position is unattainable because MPEP 1214.06 clearly states that "claims indicated as allowable prior to appeal except for their dependency from rejected claims will be treated as *if they were rejected*", *emphasis added.* Therefore, the previously indicated allowable dependent claims 13 and 14 prior to appeal were treated as they were rejected with other rejected dependent claims 2, 4-8, 10-12, 15, 16 and 19-24. The appellant also indicates that since the newly added dependent claims 26-38 and 40-42 were dependent upon allowable independent claims 25 and 39, respectively, then, these dependent claims are also allowable. The appellant further argues that the examiner should have entered the amendment filed on Dec. 5, 2005 and allowed the application. Petitioner's arguments are not convincing because the newly added dependent claims 26-38 and 40-42 and independent claim 25 raise new issues that require further consideration as clearly indicated in the letter of abandonment mailed on Jan. 31, 2006. Newly broadened independent claim 25 does not have the same scope of the dependent claim 9. A new consideration and search is required. With regard to newly added dependent claims 26-38, they also require new consideration because the combination of claims 26-38 previously was never dependent upon claim 9. The newly added dependent claims 40-42 were never dependent upon the subject matter of dependent claim 18. This also requires further consideration and search.

Finally, it should be noted that the Office action of Nov. 8, 2005, clearly stated that there are no allowable claims in the application, the applicant is given one month time period from the mailing date of this letter with no extension of time permitted in which to present the dependent claims 9 and 18 in independent form to avoid ABANDONMENT of the application. Since the prosecution is closed after the entry of Board's decision, any amendment, other than placing dependent claims 9 and 18 in independent form, is not allowed. In view of the fact that the appellant's amendment filed on Dec. 5, 2005 clearly does not place the application in condition for allowance for the reasons as stated above, the holding of abandonment is proper as stated in the Notice of Abandonment of Jan. 31, 2006 in accordance with MPEP 711.02[2].

Conclusion

For the foregoing reasons it appears that the examiner's holding of abandonment was properly made. Therefore, there is no basis for granting the relief requested.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled

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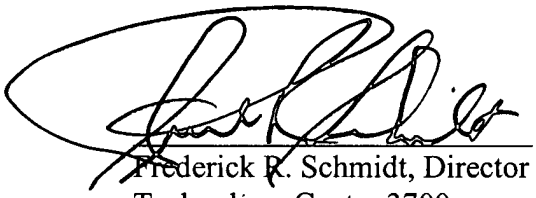
[2]MPEP 711.02 [R-3] Failure To Take Required Action During Statutory Period; 37 CFR 1.135(a) specifies that an application becomes abandoned if applicant "fails to reply" to an office action within the fixed statutory period. This failure may result either from (A) failure to reply within the statutory period, or (B) insufficiency of reply, i.e., failure to file a "complete and proper reply, as the condition of the case may require" within the statutory period (37 CFR 1.135(b)).

"Renewed Petition under 37 CFR 1.181." Alternatively, petitioners may wish to consider filing a petition to revive under 37 CFR 1.137 and RCE for further consideration of the amendment filed on Dec. 5, 2005. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED



Frederick R. Schmidt, Director
Technology Center 3700

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COATS & BENNETT, PLLC
1400 Crescent Green - Suite 300
Cary, NC 27518

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MAY 20 2008

OFFICE OF PETITIONS

In re Application of	:	
Scott G. Williams	:	
Application No. 10/051,488	:	ON PETITION
Filed: January 18, 2002	:	
Attorney Docket No. 4818-002	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on June 11, 2007, to revive the above-identified application.

The above application became abandoned for failure to file a proper reply to the Office action mailed November 8, 2005. A Notice of Abandonment was mailed on January 31, 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 Request for Continued Examination (RCE) under 37 CFR 1.114, with the $395 filing fee; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE filed on June 11, 2007.

The application file is being referred to Technology Center Art Unit 3723, for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TERRY L. WILES
POPOVICH & WILES P.A.
IDS CENTER, SUITE 1902
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402

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JUN 14 2002

OFFICE OF PETITIONS

In re Application of	:	
Rudy Mazzocchi et al	:	
Application No. 10/051,492	:	NOTICE
Filed: January 18, 2002	:	
Attorney Docket No. MVA1001USC3	:	

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 3731.

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

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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MAR 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Lin et at.	:	
Application No. 10/051497	:	ON APPLICATION
Filing or 371(c) Date: 01/18/2002	:	FOR
Attorney Docket Number: A0871.70000US01	:	PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed June 29, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is at least 87 days, not 0 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction based upon the assertion that (1) the Office erred in assessing reductions associated with the filing of two Information Disclosure Statements; (2) this Office failed to assess a reduction in connection with the filing of an Amendment under 37 CFR 1.312, and (3) the Office will take in excess of three years to issue this patent.

The application for patent term adjustment is **GRANTED TO THE EXTENT INDICATED HEREIN**.

Because the correction of the adjustment will not result in a change in Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance remains zero (0) days (adjustments totaling 344 days less reductions totaling 597 days). A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 31, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is zero (0) days.

On June 29, 2009, applicants timely submitted the present application for patent term adjustment[1]. Applicants request review of the Patent Term Adjustment determination, in particular, (1) the 46 day period of reduction for applicant delay for the time period beginning on the day after the date that the response to the non-final Office action was filed, February 2, 2007,

[1] Office records show that the Issue Fee payment was received in the Office on June 29, 2009.

and ending on the date that the IDS was filed, March 19, 2007; (2) the failure of the Office to assess a reduction in connection with the filing of an Amendment under 37 CFR 1.312, and (3) applicant's entitlement to a period of patent term adjustment of at least 281 days for the failure of this Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a).

Applicants do not dispute the adjustment of 344 days under 1.702(a)(1). Applicants also do not dispute the reductions of 448 days (56 days; 94 days; 93 days, 11 days, 97 days; 36 days; 30 days, or 31 days) under 37 CFR §§ 1.704(b) and (c).

Regarding the reduction of 46 days attributed to applicants in connection with the IDS filed March 19, 2007, a review of the application file reveals the applicant was assessed a reduction of 46 days for the time period beginning on the day after the date that the response to the non-final Office action was filed, February 2, 2007, and ending on the date that the IDS was filed, March 19, 2007. Applicant, however, should have been assessed a reduction, pursuant to 37 CFR 1.704(c)(8), of 11 days[2] in connection with the filing of the IDS on February 12, 2007, and of 35 days associated with the filing of the IDS on March 19, 2007.

Applicants argue that the IDS filed March 19, 2008 "was accompanied by a statement that each item each item of information contained in the IDS was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the IDS. Application for PTA at p.3. (Emphasis supplied). A review of the IDS filed March 19, 2007, reveals that the statement that accompanied the IDS stated that the communication was not received "by the office of the undersigned" more than thirty days prior to the filing of the IDS, and not that the communication was not received by "by any individual designated in § 1.56(c)" more than thirty days prior to the filing of the IDS. Supplemental Statement at p.2. Applicant failed to include a statement that complies with 37 CFR 1.704(d)[3].

Accordingly, the PTA should have been reduced by 35 days, the number of days beginning on the day after the date the IDS filed February 12, 2007, and ending on the date that the subsequent IDS was filed, March 19, 2007.

Regarding the IDS filed August 27, 2008, a review of the application file reveals that the Office errantly neglected to assess a reduction of 90 days in accordance with 37 CFR 1.704(c)(8), in connection with the IDS, filed August 27, 2009. The reduction commenced May 30, 2008, the

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[2] Applicant's do not dispute the adjustment of 11 days as noted *supra*.

[3] A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable. 37 CFR 1.704(d) (Emphasis supplied).

day after the date that response to the non-final Office action was filed, and ended August 27, 2008, the date that the IDS was filed.

Further review of the record reveals that the Office also errantly neglected to assess a reduction in accordance with 37 CFR 1.704(c)(8) in connection with the IDS, filed January 29, 2009. The reduction commenced January 6, 2009, the day after the date that response to the non-final Office action was filed, and ended January 29, 2009, the date that the IDS was filed, or 24 days.

In view thereof, the patent term adjustment at the time of the mailing of the Notice of Allowance is zero (0) days (344 days of Office adjustment less 597 days of applicant delay (56 + 94 +93 +11 +35 +97 +36 +30 +90 +31 + 24), subject to any terminal disclaimer.

Regarding Applicant's calculation of a delay in connection with the filing of the Amendment under 37 CFR 1.312 incurred after the mailing of the Notice of Allowance, and Applicant's request for a patent term adjustment pursuant to 37 CFR 1.702(b) and 1.703(b), including any exclusion of the period of adjustment pursuant to 37 CFR 1.703(b)(4) in connection with the filing of the Notice of Appeal on October 27, 2005, 37 CFR 1.705(b) states that "[a]ny request for reconsideration of the patent term adjustment indicated in the notice of allowance, except as provided in paragraph (d) of this section, and any request for reinstatement of all or part of the term reduced pursuant to § 1.704(b) must be by way of an application for patent term adjustment." (Emphasis supplied). As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to adjustments that are not indicated in the Notice of Allowance and have not been reduced by this Office pursuant to § 1.704(b), the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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 adjustment pursuant to 37 CFR 1.705(d). As the USPTO does

not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[4].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Attorney Derek Woods at (571) 272-3232.

Anthony Knight
Supervisor
Office of Petitions

[4] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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

MAILED

JUL 14 2003

Director's Office
Group 3700

Manfred K. Brueckner
818 S. 105th Street
Milwaukee, WI 53214-2544

In re application of
Brueckner Manfred

Application Number: 10/051521
Filed: January 18, 2002

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **SKY TURBINE-CITY**

This is a decision on the petition filed on January 18, 2002, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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

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

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(703) 308-0975

rt: 7/11/03

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

JONATHAN P OSHA
ROSENTAL & OSHA LLP
700 LOUISIANA
SUITE 4550
HOUSTON TX 77002

COPY MAILED

JAN 29 2003

OFFICE OF PETITIONS

In re Application of	:	
Nakahira, et al.	:	
Application No. 10/051,522	:	LETTER GRANTING FILING DATE
Filed: December 21, 2001	:	
Attorney Docket No. 04995/045001	:	

This is a response to the paper titled "Petition to Correct Filing Receipt", filed September 24, 2002, requesting that the above-identified application be accorded a filing date of December 21, 2001, rather than the presently accorded filing date of January 22, 2002.

On November 16, 2001, the Chief Operating Officer and Executive Vice President of the United States Postal Service (USPS) issued a memorandum temporarily and immediately suspending Express Mail service to the Washington, D.C. ZIP Codes 202xx through 205xx (e.g., 20231). The USPTO designated 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). The USPTO posted a notice regarding the suspension of Express Mail on the Office's website. The notice provided guidance on what action to take when the USPS refuses to accept the deposit of mail for delivery by Express Mail. The guidance set forth in the notice applies to the situation in which a post office refuses to accept the deposit of correspondence for delivery by Express Mail due to the suspension of USPS's Express Mail service to Washington, D.C., ZIP Code 20231, as well as the situation in which the correspondence is returned as undeliverable due to this suspension. The notice advised that if a party attempts to deposit correspondence for delivery to the USPTO with the USPS by Express Mail and the USPS refuses to accept the correspondence, the party should mail the correspondence 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 and that the USPS refused to accept the correspondence.

This notice was subsequently published in the Official Gazette.[1]

The request included a statement from Jonathan P. Osha, who attested that he attempted to deposit the application with the USPS by Express Mail on December 21, 2001, but the USPS refused to accept the correspondence due to the suspension of Express Mail to the 20231 Zip Code. He then mailed the application to the Assistant Commissioner for Patents, Washington, D.C. 20231, including the box designation "Box Filing Date". Accordingly, the application is entitled to a filing date of December 21, 2001.

The request to accord the application a filing date of December 21, 2001 is granted.

No petition fee is required and none has been paid.

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 returned to the Office of Initial Patent Examination for correction of the filing date to **December 21, 2001** and for issuance of a new filing receipt.

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

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

cc: Rosenthal & Osha, L.L.P.
One Houston Center
1221 McKinney Street
Suite 2800
Houston, Texas 77010

[1] See Suspension of the "Express Mail" Service of United States Postal Service for mail addressed to ZIP Codes 202xx through 205xx, 1253 Off. Gaz. Pat. Office 103 (Dec. 25, 2001).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

John R. Hoffman
P.O. Box 191
616 W. 13th Street
Jasper, IN 47547

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FEB 23 2004
OFFICE OF PETITIONS

In re Application of
Loren J. Veltrop, et al.
Application No. 10/051,526
Filed: January 18, 2002
Attorney Docket No. N/A

ON PETITION

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

The petition is GRANTED.

The above-identified application became abandoned for failure to submit substitute drawings in a timely manner in reply to the Notice To File Corrected Application Papers mailed February 14, 2002, which set a shortened statutory period for reply of two(2) months. Accordingly, the application became abandoned on April 15, 2002.

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

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111.

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

Cheryl Gibson-Baylor
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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MICHAEL BLAINE BROOKS, P.C.
P.O. BOX 1630
SIMI VALLEY, CA 93062-1630

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OCT 27 2008

OFFICE OF PETITIONS

In re Application of :
SCHLEE, Daniel R. :
Application No. 10/051, 557 : DECISION ON PETITION
Filed: January 16, 2002 : TO WITHDRAW
Attorney Docket No. **74331.000004** : 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 20, 2008.

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

A review of the file record indicates that the power of attorney to Michael Blaine Brooks, P.C. has been revoked by the assignee of the patent application on September 24, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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

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

TERRY L. WILES
POPOVICH & WILES, P.A.
IDS CENTER, SUITE 1902
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402

COPY MAILED

JUN 1 4 2002

OFFICE OF PETITIONS

In re Application of :
Rudy Mazzocchi et al :
Application No. 10/051,565 : NOTICE
Filed: January 16, 2002 :
Attorney Docket No. MVA1001USC2 :

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 3700.

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
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/051,565	01/18/2002	3731	1040	MVA1001USC2	17	9	2

CONFIRMATION NO. 9704

CORRECTED FILING RECEIPT

OC000000018049179

009561
POPOVICH, WILES & O'CONNELL, PA
650 THIRD AVENUE SOUTH
SUITE 600
MINNEAPOLIS, MN 55402

Date Mailed: 02/14/2006

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)

Rudy Mazzocchi, Woodbury, MN;
Timothy Claude, Coon Rapids, MN;
James Segermark, Gem Lake, MN;

Assignment For Published Patent Application

Microvena Corporation

Power of Attorney:

Terry Wiles--29989
Patrick O'Connell--33984
Miriam Simmons--34727

Domestic Priority data as claimed by applicant

This application is a CON of 08/748,066 11/12/1996 PAT 6,605,102
which is a CON of 08/272,425 07/08/1994 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 02/14/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/051,565

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND DEVICE FOR FILTERING BODY FLUID

Preliminary Class

606

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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MCGLEW & TUTTLE, PC
P.O. BOX 9227
SCARBOROUGH STATION
SCARBOROUGH, NY 10510-9227

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JUL 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Horst Rathert	:	
Application No. 10/051,577	:	DECISION ON PETITION
Filed: January 16, 2002	:	
Attorney Docket No. 70418	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 5, 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 July 28, 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 September 29, 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) fee of $395.00 and submission (an amendment), (2) the petition fee of $750.00, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3724 for appropriate action by the Examiner in the normal course of business on the reply received March 5, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

TERRY L. WILES
POPOVICH & WILES P.A.
IDS CENTER, SUITE 1902
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402

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JUN 1 4 2002

OFFICE OF PETITIONS

In re Application of :
Rudy Mazzocchi et al :
Application No. 10/051,591 : NOTICE
Filed: January 18, 2002 :
Attorney Docket No. MVA1001USC4 :

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 3731.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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WILDMAN HARROLD ALLEN & DIXON
225 WEST WACKER DRIVE, SUITE 2800
CHICAGO, IL 60606

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MAY 23 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kemma S .Dodds :
Application No. 10/051,607 :
Filed: January 17, 2002 :
Attorney Docket No. ATT-5 :

This is a decision on the petition under 37 CFR 1.313 (c)(2), filed May 23, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3723 for processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

www.uspto.gov

Date : May 23, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Kemma S. Dodds
Application No. : 10/051,607
Filed : January 17, 2002

The above-identified application has been assigned Patent No. 6,896,599 and an issue date of May 24, 2005.

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

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 24, 2005:

"All reference to Patent No. 6,896,599 to Kemma S. Dodds of North Lauderdale, FL for HIGH TORQUE DUAL CHAMBER TURBINE ROTOR FOR HAND HELD OR SPINDLE MOUNTED PNEUMATIC TOOL appearing in the Official Gazette of May 24, 2005 should be deleted since no patent was granted."

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

cc: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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CLAIRVOYANTE, INC.
874 GRAVENSTEIN HIGHWAY SOUTH, SUITE 14
SEBASTOPOL, CA 95472

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DEC 16 2004

OFFICE OF PETITIONS

In re Application of :
Brown Elliot, et al. :
Application No. 10/051,612 : DECISION GRANTING PETITION
Filed: January 16, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. CLRV-003 :

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 month publication country on April 22, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. Please note, the application published on February 20, 2003.

This application is being forwarded to Technology Center Art Unit 2675 for examination in due course.

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

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
WASHINGTON, D.C. 20231
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Paper No. 6

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SEP 2 5 2002

Technology Center 2100

KING & SPALDING
191 Peachtree Street, N.E.
Atlanta, GA 30303-1763

In re Application of: Douglas Brown Dillard, et al.
Application No. 10/051,616
Filed: January 18, 2002
For: AUTOMATED DATA COLLECTION AND TRANSMISSION

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed 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**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 15

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

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NOV 12 2003

OFFICE OF PETITIONS

In re Application of
Colin P. Britton et al.
Application No. 10/051,619
Filed: October 29, 2001
Attorney Docket No. 0103488-00005
Title: METHODS AND APPARATUS FOR REAL-TIME BUSINESS VISIBILITY USING PERSISTENT SCHEMA-LESS DATA STORAGE

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

This is a decision on the petition filed on September 2, 2003[1], 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[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 May 15, 2002. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

1 On September 30, 2003, a supplement to this petition was submitted via facsimile transmission.
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.

On June 5, 2002, a Notice of Rescission of Nonpublication Request was filed with the Office. Unfortunately, this was not accompanied by a notice of the 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.

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.

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 a statement which is being construed as 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

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TECHNOLOGY CENTER 3600

SNELL & WILMER
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX, AZ 85004-2202

Paper No. 4

In re application of :
Guy J. Labelle et al. :
Application No.10/051,645 :
Filed: January 18, 2002
For: SYSTEM AND METHOD FOR DISPENSING INSURANCE THROUGH A COMPUTER NETWORK

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed November 3, 2003 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(h); (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 November 3, 2003 completes 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.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/cps:12/12/03

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. 5

TERRY L. WILES
POPOVICH & WILES, P.A.
IDS CENTER, SUITE 1902
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402

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SEP 3 0 2002

OFFICE OF PETITIONS

In re Application of :
Rudy Mazzocchi et al :
Application No. 10/051,648 :
Filed: January 18, 2002 :
Attorney Docket No. MVA1001USC6 :

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 3700.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 5

MARK I. KOFFSKY, ESQ.
SYMBOL TECHNOLOGIES, INC.
ONE SYMBOL PLAZA, MS A-6
HOLTSVILLE, NY 11742-1300

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JUL 0 9 2002

OFFICE OF PETITIONS

In re Application of
Sean Connolly et al.
Application No. 10/051,650
Filed: October 19, 2001
Att'y Docket No. 1188

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

This is in response to the petition filed under 37 CFR 1.47(a) on April 11, 2002.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor, Ronald Nottingham, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of petitioners' registered patent attorney, Mark I. Koffsky, establishes that the non-signing inventor was sent a copy of the application on two occasions, but failed to return an executed declaration. In accepting this petition, the Office is construing the statement to mean that petitioner's counsel has first hand knowledge of the sending of the application papers to the non-signing inventor. Petitioners **must** inform the Office if this is not a correct interpretation.

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

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

The application is being forwarded to Technology Center 2800 for examination in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper 6

RONALD NOTTINGHAM
2702 ST. MORITZ COURT
RICHMOND, VA 23224

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JUL 09 2002

OFFICE OF PETITIONS

In re Application of
Sean Connolly et al.
Application No. 10/051,650
Filed: October 19, 2001
Attorney Docket No. 1188
For: ANTENNA ASSEMBLY

LETTER

Dear Mr. Nottingham:

You are named as the sole 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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

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

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

Patricia Faison-Ball

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

cc: MARK I. KOFFSKY, ESQ.
SYMBOL TECHNOLOGIES, INC.
ONE SYMBOL PLAZA, MS A-6
HOLTSVILLE, NY 11742-1300

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 7

MARK I. KOFFSKY, ESQ.
SYMBOL TECHNOLOGIES, INC.
ONE SYMBOL PLAZA, MS A-6
HOLTSVILLE, NY 11742-1300

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OFFICE OF PETITIONS

In re Application of
Sean Connolly et al.
Application No. 10/051,650
Filed: October 19, 2001
Attorney Docket No. 1188

: DECISION NOTING JOINDER OF
: INVENTOR AND PETITION UNDER
: 37 CFR 1.47(a) MOOT

On July 9, 2002, a "Decision According Status Under 37 CFR 1.47(a)" was mailed.

On August 27, 2002, papers including a Declaration signed by the previously nonsigning inventor, Ronald Nottingham were filed.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application will be forwarded to Technology Center 2800 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions
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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WOMBLE CARLYLE SANDRIDGE & RICE
P.O. BOX 7037
ATLANTA, GA 30357-0037

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SEP 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Scott P. Crafton et al :
Application No. 10/051,666 : ON PETITION
Filed: January 18, 2002 :
Attorney Docket No. C 152 1150 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 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 February 24, 2005.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of a continuing application No. 11/189,452.

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

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Files Repository.

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

UNITED STATES
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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 05

#7

BAKER & McKENZIE
805 THIRD AVENUE
NEW YORK, NY 10022

In re Application of :
Daniel Shahaf : PETITION DECISION
Serial No.: 10/051,712 :
Filed: January 17, 2002 :
For: Inhalation Protection Apparatuses :

This is in response to applicants' petition filed January 17, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d), as an invention for countering terrorism.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02 XI. Therefore the petition is **GRANTED**.

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

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

John E. Kittle
Director
Technology Center 3700/2900

#7

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P.O. Box 1450
Alexandria, VA 22313-1450
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THE ECLIPSE GROUP
10453 Raintree Lane
Northridge, CA 91326

MAY 25 2007

In re Application of:
UY *et al.*
Serial No.: 10/051,726
Filed: January 17, 2002
Attorney Docket No.: **ST01015USU(133-US-U1)**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed January 04, 2005. The petition has been treated as a petition under 37 CFR § 1.181, to withdraw the holding of abandonment in the above-identified application. No petition fee is required.

The petition is **GRANTED**.

The application was held abandoned for the failure to timely file a response to the non-final Office action mailed on December 24, 2003. A Notice of Abandonment was mailed on August 09, 2004.

Petitioner asserts that on March 22, 2004, a response was timely filed in the above-identified application. To support this assertion, petitioner has submitted a copy of the response bearing a certificate of mailing dated March 19, 2004, and a return postcard receipt bearing the date stamp of receipt of March 22, 2004.

A review of the application file reveals the above noted responses were not matched with the application file wrapper at the time of mailing of the Notice of Abandonment. The response filed March 22, 2004, has since been located and matched with the file wrapper.

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 examiner of record for consideration of the response and prompt appropriate action.

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

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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THE LAW OFFICE OF KIRK D. WILLIAMS
PO BOX 39425
DENVER, CO 80239-0425

Mail Date: 04/21/2010

Applicant	: John J. Williams JR.	: DECISION ON REQUEST FOR
Patent Number	: 7613200	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/051,728	: 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 **2163** 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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Washington, D.C. 20231
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Paper No. 5

Robert E. Fischell
14600 Viburnum Dr.
Dayton, MD 21036

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JUN 1 3 2002

OFFICE OF PETITIONS

In re Application of
Fischell et al.
Application No. 10/051,743
Filed: January 22, 2002
Attorney Docket No. A1-01

DECISION GRANTING PETITION

This is a decision on the petition filed April 11, 2002, to establish that Figures 6, 8, and 16 were part of the originally filed application.

The petition is only signed by one of the three co-inventors. However, the original application was accompanied by a paper signed by all three inventors stating that Robert Fischell has the authority to prosecute the application on behalf of all the inventors. Therefore, Robert Fischell has the authority to file the instant petition. A review of the declaration reveals that the declaration does not state the citizenship of the inventors. A proper declaration must be filed. Attached is a declaration form which has been approved by the Office.

On January 22, 2002, the application was filed.

On April 2, 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 January 22, 2002, and advising applicants that Figures 6, 8, and 16 described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that the figures were deposited on January 22, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "13 SHEETS OF DRAWINGS" on January 22, 2002.[1] Petitioner has also submitted a copy of the missing documentation- 3 sheets of drawings which consist of Figures 6, 8, and 16.

Upon review of the record, Figures 6, 8, and 16 deposited on January 22, 2002, have not been located. However, the evidence is convincing that the application papers deposited on January 22, 2002, included the missing figures and that the figures were subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of Figures 6, 8, and 16 submitted with the petition will be used for examination purposes.

---

[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.

Since petitioner has proven the Office misplaced the drawings, the petition fee of $130 will be scheduled for a refund.

The Notice mailed April 2, 2002, was sent in error and is hereby vacated.

With the original application, petitioner filed a petition to make special.[2] Petitioner may wish to note that this type of petition is not decided by the Office of Petitions but is decided by the Technology Center. Therefore, petitioner should not be concerned that this decision does not treat the merits of the petition to make special. A decision on the petition to make special will be rendered after the pre-examination processing of the application has been finished and after the file has been sent to Technology Center 3700.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 22, 2002, using the application papers filed on January 22, 2002, and the copy of three pages of drawings consisting of Figures 6, 8, and 16, 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

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

Attached: PTO/SB/01
PTO/SB/02A

[2] A petition to make special under MPEP 708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

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Alexandria, VA 22313-1450
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Jeffrey J. Hohenshell
710 Medtronic Parkway
Minneapolis, MN 55432

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SEP 19 2007

OFFICE OF PETITIONS

In re Application of
John D. Puskas
Application No. 10/051,752
Filed: January 16, 2002
Attorney Docket No. ICT 134

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 **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Jeffrey J. Hohenshell have been revoked by the applicant of the patent application on May 14, 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: **Law Office of Collen A. Beard, LLC**
P.O. Box 1064
Decatur, GA 30031-1064

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/21/2010

Applicant	: Eric A. Durant	: DECISION ON REQUEST FOR
Patent Number	: 7650004	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/051,757	: 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 **1397** 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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JJGJR.: 06-06

Paper No: __

QUALCOMM, INC
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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JUN 19 2006

OFFICE OF PETITIONS

In re Application of :
Hsu :
Application No.: 10/051,777 :
Filing Date:16 January, 2002 :
Attorney Docket No. 020104 :

DECISION

This is a decision on the petition filed on 12 April, 2006, to revive the instant application under 37 C.F.R. §1.137(b) as having as abandoned due to unintentional delay.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 5 October, 2005, with reply due absent extension of time on or before 5 January, 2006;
- the application went abandoned by operation of law after midnight 5 January, 2006;
- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;
- on 12 April, 2006, Petitioner filed with the instant petition (with fee) a reply in the form of an amendment, but failed to make the statement ("...the entire delay ... from the due

date of the reply to the filing of a grantable petition ... was unintentional ...") nor showing of unintentional delay (docket records)–however, **the petition is read to so state, and Petitioner hereby is placed on notice that, under his duty of candor to the Office he must notify the Office is this reading is incorrect.**[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

---

[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

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

Allegations as to
Unintentional Delay

The requirements for 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 if the application was filed before 8 June, 1995. Petitioner may review the commentary set forth at MPEP §711.03(c) and the language at 37 C.F.R. §1.137(b) for guidance.

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to the Examiner in Technology Center 2600 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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 15, 2007

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No. 10/051784 patent No.: 6956040

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: _____

SPE TQAs

1600

~~Art Unit~~ TC

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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NOV 12 2004

OFFICE OF PETITIONS

In re Application of :
Yulun Wang, et al. :
Application No. 10/051,796 : ON PETITION
Filed: January 16, 2002 :
Attorney Docket No. 155695-0238 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 20, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed June 16, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 17, 2004.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

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

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

Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105-2482

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JUL 2 2 2003

OFFICE OF PETITIONS

In re Application of
Niu et al.
Application No. 10/051,830
Filed: January 16, 2002
Attorney Docket No. 509982001200

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed May 2, 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 13, 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 23, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 308-6911.

This application is being forwarded to Technology Center Art Unit 2123 for appropriate consideration of the Information Disclosure Statement filed on March 11, 2002, and the supplemental Information Disclosure Statements filed on March 25, 2002 and April 17, 2003.

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

Marianne E. Morgan for
Francis Hicks
Lead Petitions Examiner

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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HAYNES BEFFEL & WOLFELD
P.O. BOX 366
HALF MOON BAY CA 94019

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AUG 3 1 2004

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
William R. Dubrul	:	
Application No. 10/051,848	:	
Filed: January 17, 2002	:	
Attorney Docket No. ARTM 1008-6	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 14, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 10/866,980 filed June 14, 2004.

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

The application is being referred to Files Repository.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 17 2005

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

In re Application of	:	
Farhad Khosravi et al	:	
Application No: 10/051,855	:	WTHDRAWAL
Filed: January 16, 2002	:	FROM ISSUE
Title: Vascular Filer Having Articulation Region	:	
And Method of Use in the Ascending Aorta	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 C.F.R. 1.313.

The application is being withdrawn to permit reopening of prosecution due to unpatentability of one or more claims. See 37CFR 1.313(b)(3).

PTO records reveal that the issue fee has not been paid. If the fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the Examiner for action.

John E. Kittle
Director
Technology Center 3700/2900

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)
6620052	2003-09-16	10051862	2002-01-16	MLF 665-01

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Richard B. Main/	Date (YYYY-MM-DD)	2007-10-25
Name	Richard B. Main	Registration Number	33258

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. 6620052
Issue Date: September 16,2003
Application No. 10051862
Filed: January 16,2002
Attorney Docket No. MLF-665-01

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

This is a decision on the electronic petition, filed October 26,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 26,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 11

FISH & RICHARDSON, P.C.
3300 DAIN RAUSCHER PLAZA
MINNEAPOLIS, MN 55402

COPY MAILED

JUN 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Guenther et al. :
Application No. 10/051,867 : ON PETITION
Filed: January 15, 2002 :
Attorney Docket No. 2001 P 08373 US :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 10, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply to the final Office action mailed May 30, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on August 31, 2003. A Notice of Abandonment was mailed April 5, 2004.

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 Amendment submitted to the Examiner on May 10, 2004 failed to place the above-identified application in condition for allowance. A proper reply to a final rejection under 37 CFR 1.113 may be: (1) an amendment, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Petitioner must submit one of the above documents in order to revive the above-identified application. The Advisory Action issued by the Examiner is enclosed.

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.

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the existing Customer Window located at:

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

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

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

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

Enclosure: Advisory Action

CC: JENNIFER A. ZANOCCO
FISH & RICHARDSON, P.C.
500 ARGUELLO STREET, SUITE 500
REDWOOD CITY, CA 94063

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 15

FISH & RICHARDSON P.C.
3300 DAIN RAUSCHER PLAZA
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Guenther et al.	:	
Application No. 10/051,867	:	ON PETITION
Filed: January 15, 2002	:	
Attorney Docket No. 12406-048001	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed June 25, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed May 30, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on August 31, 2003. A Notice of Abandonment was mailed on April 5, 2004.

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

The file is now being forwarded to Technology Center 2800 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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OFFICE OF PETITIONS

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

In re Application of :
Hirokazu Yamagata et al :
Application No. 10/051,895 :
Filed: January 17, 2002 :
Attorney Docket No. SEL 298 :

ON PETITION

This is a decision on the petition, filed May 4, 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 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 (703) 305-8859.

The examiner of Technology Center AU 2829 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Jack C. McGowan
246 High Street
Hamilton OH 45011

COPY MAILED

FEB 0 6 2004

OFFICE OF PETITIONS

In re Application of
Kenneth H. Bottom
Application No. 10/051,927
Filed: January 22, 2002
Attorney Docket Number: JM001

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on January 30, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned April 16, 2002, for failure to timely reply to the Notice to File Missing Parts mailed on February 15, 2002, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed December 5, 2003.

Receipt of the substitute drawings submitted to comply with 37 CFR 1.84 is acknowledged.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[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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United States Patent and Trademark Office
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www.uspto.gov

Paper No. 14

HERTEN BURSTEIN SHERIDAN CEVASCO
BOTTINELLI LITT TOSKOS & HARZ
COURT PLAZA NORTH
25 MAIN STREET
HACKENSACK, NJ 07601

COPY MAILED

SEP 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Gayle Rosenberg et al :
Application No. 10/051,948 : ON PETITION
Filed: January 22, 2002 :
For: EXPAND-A-PLATTER/TRAY :

This is a decision on the petition under 37 CFR 1.137(b), filed July 27, 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 mailed December 4, 2003. The Notice set a period for reply of one (1) month or thirty (30) days (whichever is later) 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 January 5, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.[1]

The application file is being forwarded to Technology Center AU 3634.

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

[1] Effective September 27, 2004, the phone number will be 571-272-3220.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID P. DURESKA
BUCKINGHAM DOOLITTLE & BURROUGHS
4518 FULTON DRIVE, NW
CANTON, OH 44735-5548

COPY MAILED

MAR 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Joseph M. Ross et al :
Application No. 10/051,968 : ON PETITION
Filed: January 16, 2002 :
Attorney Docket No. HEND-AI :

This is a decision on the petition under 37 CFR 1.137(b), filed January 23, 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 July 27, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on January 31, 2005 (certificate of mailing date January 27, 2005), did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed February 14, 2005. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. Extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on January 28, 2005.

The above-identified application is being revived solely for purposes of continuity with a submission under 37 CFR 1.114 (request for continued examination (RCE)).

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center 3616 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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WELLS ST JOHN PS
601 WEST FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

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MAR 3 1 2004

OFFICE OF PETITIONS

In re Application of :
Zhongze Wang :
Application No. 10/051,981 : DECISION GRANTING PETITION
Filed: January 16, 2002 : UNDER 37 CFR 313(c)(3)
Attorney Docket No. M122-1797 :

This is a decision on the petition, filed March 26, 2004, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

Petitioner requests withdrawal of the above-identified application from issue for the purpose of express abandonment in favor of a continuing application under 37 CFR 1.53(b), stated to have been filed concurrently with the instant petition.

This application is withdrawn from issue for express abandonment. *See* 37 CFR 1.313(c)(3). The express abandonment of this application is acknowledged.

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

This file will be processed as an abandoned application and forwarded to Files Repository.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 06-02

Paper No. 5

EVELYN M. SOMMER
30TH FLOOR
825 THIRD AVENUE
NEW YORK NY 10022

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JUN 1 3 2002

OFFICE OF PETITIONS

In re Application of :
Armando R. Lopez :
Application No. 10/051,994 : ON PETITION
Filed: 22 January, 2002 :
For: Skin Protective Compositions :

This is a decision on the petition styled under 37 CFR 1.182, filed on 12 April, 2002, requesting that the above-identified application be accorded a filing date of 22 January, 2002, with Pages 5, 11, 15 as a part of the original disclosure.

The petition is granted.

The application was filed on 22 January, 2002. However, on 8 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 but that Pages 5, 11, and 15 of the specification (description and claims) appeared to have been omitted.

In response, on 12 April, 2002, a copy of the specification, the present petition, and a petition fee were filed. Petitioner argues that Pages 5, 11, and 15 were filed with the other application papers on 22 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 22 January, 2002, and the above-identified application number, and, identifies the application by inventor's name and invention title, and acknowledges receipt of, *inter alia*, "18 page patent application". Petitioners request that the application, including Pages 5, 11, and 15 of the specification, be accorded a filing date of 22 January, 2002.

A review of the record reveals that no Pages 5, 11, and 15 of the specification has been located among the application papers deposited on 22 January, 2002. However, the evidence is

convincing that the application papers deposited on 22 January, 2002, included Pages 5, 11, and 15 of the specification, which were subsequently misplaced in the Office. Therefore, the application, including Pages 5, 11, and 15 of the specification, is entitled to a filing date of 22 January, 2002.

The "Notice" mailed on 8 March, 2002, is vacated.

Petitioner is cautioned that in future filings, 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).[1]

In view of the above, the petition is granted. The petition fee is unnecessary and petitioner may request a refund thereof by writing to the Office of Finance, ATTN: Refund Section. A copy of this decision should accompany petitioner's request.

The application will be processed and examined using the application papers filed on 22 January, 2002, and the copies of Pages 5, 11, and 15 of the specification supplied on 12 April, 2002. The copies of the other application papers filed on 12 April, 2002, will not be used for processing or examination, but will be retained in the application file.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 22 January, 2002, using the application papers filed on 22 January, 2002, and the copies of Pages 5, 11, and 15 supplied on 12 April, 2002.

---

[1] See MPEP 503.

Telephone inquires should be directed to Petitions Attorney Douglas I. Wood at 703 308-6918.

D Wood

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

Beverly M. Flanagan

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

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EVELYN M. SOMMER
570 LEXINGTON AVENUE , 17TH FLOOR
NEW YORK NY 10022

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JAN 11 2008

OFFICE OF PETITIONS

In re Application of	:	
Armando R. Lopez	:	
Application No. 10/051,994	:	ON PETITION
Filed: January 22, 2002	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 16, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of September 18, 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 20, 2006. See MPEP 1214.06.

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

A statement that the entire delay in filing the required reply from the due date from the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional was omitted from the 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 hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCKELLAR IP LAW, PLLC
784 SOUTH POSEYVILLE ROAD
MIDLAND MI 48640

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MAY 0 3 2006

OFFICE OF PETITIONS
ON PETITION

In re Application of :
John A. Reeve :
Application No. 10/052,002 :
Filed: January 17, 2002 :
Attorney Docket No.: **MAC-199** :

This is a decision on the petition filed April 24, 2006 to revive the above identified application under 37 CFR 1.133 which is treated under 37 CFR 1.137(a).

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 "Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned November 6, 2005 for failure to file a timely and proper response to the Restriction Requirement mailed October 5, 2005, which set a one month period for reply. No extensions of time having been filed prior to the expiration of the period set for reply, this application became abandoned. Accordingly, a Notice of Abandonment was mailed April 18, 2006.

Petitioner contends that a response to the October 5, 2005 Office Action was timely filed on November 8, 2005 with a one month extension of time request and fee. Copies of the response purportedly filed November 8, 2005 accompany this petition.

At the outset, petitioner files the instant petition under 37 CFR 1.133, indicates that it is petitioner's desire to have the instant abandoned application revived and authorizes the payment of $55 for the petition fee. Petitioner is advised that 37 CFR 1.133 is not a proper code regulation for reviving an abandoned application. Furthermore, the small entity fee for reviving an abandoned application is no longer set at $55. Effective December 8, 2004, the fee was set at $250 for reviving an abandoned application under the unavoidable standard. Since petitioners have stated their intent to revive and since petitioners have authorized the payment for the previous fee set for reviving the application under the unavoidable standard, deposit account no. 13-2492 has been charged in the amount of $250.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) however must be accompanied by:

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

(2) the petition fee as set forth in § 1.17(l);

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

This petition lacks item (3), above.

SHOWING OF UNAVOIDABLE DELAY

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

With regard to item (3), decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable.

Petitioner has indicated that a response to the office action was timely filed on

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

November 8, 2005 with a one month extension of time. The U.S. Patent and Trademark Office (Office) file is the official record of papers filed in this application. A review thereof does not reveal that a response was filed to the Office Action on November 8, 2005. Additionally, copies of the purported response do not include a certificate of mail pursuant to 37 CFR 1.8[2], and neither is the postcard used as proof of a timely filed response, date-stamped as having been received by the Office pursuant to MPEP 503.[3]

An application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[4]

Petitioner has not submitted additional evidence to corroborate the claim that a timely response was filed to the office action mailed October 5, 2005. As the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a), the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[5],

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[2]37 CFR 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received by the U.S. Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

[3]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).

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

[5]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);

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).

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).

It should be noted that if petitioner chooses to file a petition under 37 CFR 1.137(b), the fee for a small entity is set at $750.00 and the $250.00 paid for the unavoidable petition under 37 CFR 1.137(a) will not be credited towards that payment. Petitioner has already received consideration under that standard and the fees are not transferable.

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

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

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

(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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MCKELLAR IP LAW, PLLC
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MIDLAND MI 48640

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OFFICE OF PETITIONS

In re Application of :
John A. Reeve :
Application No. 10/052,002 : ON PETITION
Filed: January 17, 2002 :
Attorney Docket No. MAC-199 :

This is a decision on the petition filed June 5, 2006, to revive the above identified application under 37 CFR 1.137(b)[1].

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

This application became abandoned on November 7, 2005, for failure to file a timely response to a Restriction Requirement mailed October 5, 2005, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed April 18, 2006.

The petition fee in the amount of $750.00 has been applied to the finance records for the instant patent application.

The response to the Restriction Requirement filed September 19, 2005 will be referred to Technology Center 1746 for further processing.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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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OCT 13 2006

OFFICE OF PETITIONS

Baker & McKenzie LLP
1114 Avenue of the Americas
New York, NY 10036

In re Application of :

Anthony Zuppero et al. :
Application No. 10/052,004 : DECISION ON PETITION
Filed: January 17, 2002 : TO WITHDRAW
Attorney Docket No. 22122878-10 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 19, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Diana C. Walsh for
Amelia Au
Petitions Examiner
Office of Petitions

cc: **Neokismel LLC**
505 Montgomery Street, Suite 300
San Francisco, CA 94111

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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MAR - 2 2004

Paper No. 13

In re Application of
Saket Chadda *et al*
Application No. 10/052,010
Filed: January 1, 2003
Attorney Docket No. SFI 1017

: DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on December 30, 2003 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure to file a reply to the Office letter dated May 2003. The petition is being treated as a petition to withdraw the holding of abandonment considered pursuant 37 CFR 1.181 rather than as a petition to revive, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because a timely reply to the Office letter in question was in fact filed on June 12, 2003. Petitioner has supported this allegation by submitting a copy of the reply, which had affixed thereto a 37 CFR 1.8(a) certificate of transmission dated June 12, 2003. Based upon this showing, it is clear that this application is not abandoned. See 37 CFR 1.8(b).

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application will be forwarded to the examiner for action on the reply filed on July 12, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Speedfam-IPEC Corporation
305 North 54th Street
Chandler, AZ 85226

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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INGRASSIA FISHER & LORENZ, P.C.
7150 E. CAMELBACK, STE. 325
SCOTTSDALE, AZ 85251

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OFFICE OF PETITIONS

In re Application of	:	
Chadda et al.	:	
Application No. 10/052,010	:	DECISION ON APPLICATION
Filed: January 17, 2002	:	FOR
Atty Docket No. SFI 1017	:	PATENT TERM ADJUSTMENT
	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed March 2, 2005. Applicants request that the initial determination of patent term adjustment be corrected from zero (0) days to at least two hundred forty-three (243) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is two hundred forty-three (243) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 10, 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 0 days. Applicants timely filed the instant application for patent term adjustment[1]. Applicants dispute the reduction of 140 days. Furthermore, applicants assert entitlement to a period of adjustment of greater than 17

[1] Office records show that the Issue Fee payment was received on May 5, 2005.

days for Office delay in taking action in response to their response after non-final Office action. Applicants assert that their response to the restriction requirement of May 12, 2003, was faxed to the Office within three months on June 12, 2003 (and resubmitted on petition filed December 30, 2003). Thus, the date of December 30, 2003 should not have been used for their date of response and no period of reduction should have been entered. Further, given the date of receipt of June 12, 2003, applicants assert entitlement to an adjustment under § 1.703(a)(2) of greater than 17 days for Office delay. Specifically, applicants request a period of adjustment of 218 days for the delay in mailing a non-final Office action until May 17, 2004.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

A review of the application history reveals that no response to the Office action mailed May 12, 2003 was considered timely filed by the Office and the application became abandoned. Applicants were advised of the abandonment by notice mailed December 8, 2003. The record establishes that, in response, on December 30, 2003, applicants filed a petition to revive (which was properly treated as a petition to withdraw the holding of abandonment). It is specifically noted that the petition to withdraw the holding of abandonment was filed within two months from the mailing date of a notice of abandonment. See § 1.704(c)(4). Moreover, by decision mailed March 2, 2004, the petition was granted on the basis that applicants had shown that a proper response was filed on June 12, 2003.

In view thereof, it is concluded that applicants did not fail to engage in reasonable efforts to conclude processing or examination of the application by delaying in replying to the Office action within the meaning of § 1.704(b).

Moreover, applicants are correct that given the showing of receipt of applicants' response in the Office on June 12, 2003, the application is entitled to a period of adjustment for Office delay. The Office did not take action in response until May 17, 2004. Pursuant to § 1.702(a)(2) and § 1.703(a)(2), the period of adjustment is 218 days, counting the number of days in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed, October 13,

2003, and ending on the date of mailing of an action under 35 U.S.C. 132, May 17, 2004.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 243 days.

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

Pursuant to the NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b) mailed June 13, 2005, the application is being returned to Technology Center AU 3723 for further action.

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

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

Enclosure: Copy of REVISED PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

Archana B. Vittal
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Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025-1026

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In re Application of
Janik, et al.
Application No. 10/052,057
Filed: October 19, 2001
Attorney Docket No. 5532.P020
For: AUTOMOTIVE STORAGE AND PLAYBACK DEVICE AND METHOD FOR USING THE SAME

DECISION ON PETITION

COPY MAILED

JUL 18 2002

OFFICE OF PETITIONS

This is a decision on the petition, filed May 20, 2002, requesting that page 2 of the specification be accorded a filing date of October 19, 2001.

The application was filed on October 19, 2001. On March 18, 2002, the Office of Initial Patent Examination mailed a " Notice to File Missing Parts of Nonprovisional Application" informing petitioners, *inter alia*, that page 2 of the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request the October 19, 2001 filing date for page 26 on the basis that the allegedly omitted page was received in the Patent and Trademark Office (PTO) on October 19, 2001. In support, the petition is accompanied by a declaration of the attorney of record who reviewed the application and attests to the fact that page 2 was present upon mailing and applicants' Express Mail label with a date-in of October 19, 2001.

The declaration by counsel submitted with the petition states without equivocation or doubt that she checked the assembled application papers to determine that the application included all pages of the specification and that page 2 was deposited into the envelope along with the rest of the application papers.

The Office file is the official record of what was mailed by Express Mail or filed on October 19, 2001. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this regard, declarations by individuals involved in the preparation and mailing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed and/or mailed are no more persuasive of what was actually mailed than the contents of the official record. Such declarations, as in this case, are usually made months after the actual events recited.

In this case, the declaration executed on May 16, 2002 was made more seven (7) months after the application was actually mailed.

It is for this reason that the Office has established a practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice, which was long ago established and is well publicized, requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

To reiterate, a properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. It is noted that petitioners have not submitted their copy of the return postcard receipt. Petitioners are strongly urged to do so.

Regarding petitioners' Express Mail argument, petitioners are advised that the provisions of 37 CFR 1.10(e) cannot be utilized to prove the contents of a mailing. MPEP 513 states, "Where there is a dispute as to the contents of correspondence submitted to the Office,...an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what document(s)... were filed in the Office with such correspondence. Rather, where the records of the Office (e.g. the file of the application) contain any document(s)... corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g., a postcard receipt under MPEP 503 containing specific itemization of the document(s)... purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s).. that is not among the official records of the Office."

As stated above, petitioners are urged to submit their copy of the date stamped postcard receipt.

Since page 2 was not a part of the papers filed on October 19, 2001, the application cannot be accorded the October 19, 2001 filing date with page 2 as a part of the original disclosure of this application.

The petition is dismissed.

Of course, applicants may submit page 2 in the form of an amendment (see 37 CFR 1.121) for consideration by the examiner to determine whether or not the page contains new matter compared to the original specification on October 19, 2001.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 19, 2001. Page 2, submitted with the instant petition will **not** be considered part of the original filing. The Office acknowledges receipt of 21 pages of

substitute drawings, an executed declaration, and a surcharge for the late filing of the declaration.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

SAMIR A. BHAVSAR, ESQ.
BAKER BOTTS L.L.P.
2001 ROSS AVENUE, SUITE 600
DALLAS TX 75201-2980

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SEP 08 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Shih-Tsung Yang et al
Application No. 10/052,104
Filed: January 16, 2002
Attorney Docket No. 04939P019

This is a decision on the petition, filed September 8, 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 1, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2817 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).

#12

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE

Paper no. 18

AUG 02 2005

TECHNOLOGY CENTER 3600

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

In re Application of :DECISION ON REQUEST
Robin O'Brian :TO WITHDRAW
SERIAL NO.: 10/052,107 :HOLDING OF
FILED: January 17,2002 :ABANDONMENT
FOR: ATM DATA TRANSMISSION SYSTEMS

This is a decision on the request filed February 3,2003 for withdrawal of the holding of abandonment in the above-referenced application. The application was abandoned for failure to timely-respond to the Office action mailed June 19, 2003. Applicant asserts that a response was in fact timely-filed and presents a copy of a receipt date-stamped by the PTO on December 9, 2003 .

The evidence is sufficient to show timely receipt of the response.

The holding of abandonment is WITHDRAWN.

Donald T. Hajec
Director, Technology Center 3660
(703) 306-4180

tht: 3/11/05

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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DIW Jul-06

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

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JUL 19 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Shennib et al. :
Application No. 10/052,199 :
Filed: 16 January, 2002 :
Atty. Dkt. No. 022176-000610US :

This is a decision on the petition to withdraw holding of abandonment, filed on 25 May, 2006.

This application became abandoned on 11 December, 2004, for failure to timely respond to Notice of Allowance and Fee(s) Due mailed on 10 September, 2004, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 18 April, 2006.

Petitioner asserts the holding of abandonment is in error because a timely response to the Notice of Allowance was filed in the form of a Request for Continued Examination (RCE).

A review of the record reveals the following:

On 13 January, 2004, a Notice of Allowance and Fee(s) Due was mailed.

On 15 April, 2004 (certificate of mailing date 12 April, 2004), an RCE and submission were filed.

On 10 September, 2004, a Notice of Allowance and Fee(s) Due and Notice of Allowability were mailed.

On 13 September, 2004, a Revocation and Power of Attorney and Change of Correspondence Address was filed.

As such, a review of the record reveals that, although a timely response was filed to the Notice mailed on 13 January, 2004, no response was ever filed to the Notice of Allowance and Fee(s) Due mailed on 10 September, 2004. Since no response was filed to the Notices mailed on 10 September, 2004, the application became abandoned on 11 December, 2004.

As such, the showing of record is that the abandonment resulted from the failure to petitioners to respond to the Notice of Allowance and Fee(s) Due, rather than an error on the part of the USPTO

Therefore, the application is properly held abandoned.

A courtesy copy of the Notices mailed on 10 September, 2004, is enclosed for petitioners' reference.

The petition is **DISMISSED.**

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision.

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Notice of Allowance and Fee(s) Due
Notice of Allowability

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 09/10/2004

Donald R. Greene
P.O. Box 12995
Scottsdale, AZ 85267-2995

EXAMINER	
HARVEY, DIONNE	
ART UNIT	PAPER NUMBER
2643	

DATE MAILED: 09/10/2004

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,199	01/16/2002	Adnan Shennib	ISM/006CNT	9072

TITLE OF INVENTION: DISPOSABLE EXTENDED WEAR CANAL HEARING DEVICE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$665	$300	$965	12/10/2004

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

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

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

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

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

If the SMALL ENTITY is shown as NO:

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

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

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

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

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

PTOL-85 (Rev. 09/04) Approved for use through 04/30/2007.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 09/10/2004

Donald R. Greene
P.O. Box 12995
Scottsdale, AZ 85267-2995

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (703) 746-4000, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,199	01/16/2002	Adnan Shennib	ISM/006CNT	9072

TITLE OF INVENTION: DISPOSABLE EXTENDED WEAR CANAL HEARING DEVICE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$665	$300	$965	12/10/2004

EXAMINER	ART UNIT	CLASS-SUBCLASS
HARVEY, DIONNE	2643	381-328000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.
1 _____
2 _____
3 _____

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

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

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

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

4a. The following fee(s) are enclosed:
- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):
- ☐ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)
- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

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

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,199	01/16/2002	Adnan Shennib	ISM/006CNT	9072

7590 09/10/2004

Donald R. Greene
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Scottsdale, AZ 85267-2995

EXAMINER	
HARVEY, DIONNE	
ART UNIT	**PAPER NUMBER**
2643	

DATE MAILED: 09/10/2004

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

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

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

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

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

PTOL-85 (Rev. 09/04) Approved for use through 04/30/2007.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,199	01/16/2002	Adnan Shennib	ISM/006CNT	9072

7590 09/10/2004

Donald R. Greene
P.O. Box 12995
Scottsdale, AZ 85267-2995

EXAMINER	
HARVEY, DIONNE	
ART UNIT	**PAPER NUMBER**
2643	

DATE MAILED: 09/10/2004

Notice of Fee Increase on October 1, 2004

If a reply to a "Notice of Allowance and Fee(s) Due" is filed in the Office on or after October 1, 2004, then the amount due will be higher than that set forth in the "Notice of Allowance and Fee(s) Due" because some fees will increase effective October 1, 2004. See Revision of Patent Fees for Fiscal Year 2005; Final Rule, 69 Fed. Reg. 52604, 52606 (May 10, 2004).

The current fee schedule is accessible from WEB site (http://www.uspto.gov/main/howtofees.htm).

If the fee paid is the amount shown on the "Notice of Allowance and Fee(s) Due" but not the correct amount in view of the fee increase, a "Notice of Pay Balance of Issue Fee" will be mailed to applicant. In order to avoid processing delays associated with mailing of a "Notice of Pay Balance of Issue Fee," if the response to the Notice of Allowance is to be filed on or after October 1, 2004 (or mailed with a certificate of mailing on or after October 1, 2004), the issue fee paid should be the fee that is required at the time the fee is paid. See Manual of Patent Examining Procedure (MPEP), Section 1306 (Eighth Edition, Rev. 2, May 2004). If the issue fee was previously paid, and the response to the "Notice of Allowance and Fee(s) Due" includes a request to apply a previously-paid issue fee to the issue fee now due, then the difference between the issue fee amount at the time the response is filed and the previously-paid issue fee should be paid. See MPEP Section 1308.01.

Effective October 1, 2004, 37 CFR 1.18 is amended by revising paragraphs (a) through (c) to read as set forth below.

Section 1.18 Patent post allowance (including issue) fees.

(a) Issue fee for issuing each original or reissue patent, except a design or plant patent:
- By a small entity (Sec. 1.27(a)) $685.00
- By other than a small entity $1,370.00

(b) Issue fee for issuing a design patent:
- By a small entity (Sec. 1.27(a)) $245.00
- By other than a small entity $490.00

(c) Issue fee for issuing a plant patent:
- By a small entity (Sec. 1.27(a)) $330.00
- By other than a small entity $660.00

Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

PTOL-85 (Rev. 09/04) Approved for use through 04/30/2007.

Notice of Allowability	Application No.	Applicant(s)	
	10/052,199	SHENNIB ET AL.	
	Examiner	Art Unit	
	Dionne N Harvey	2643	

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

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to *IDS filed 5/11/2004*.

2. ☐ The allowed claim(s) is/are *1-26*.

3. ☐ The drawings filed on *08 February 2002* are accepted by the Examiner.

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

   * Certified copies not received: _____.

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

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

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

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

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

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 5/11/2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

HUYEN LE
PRIMARY EXAMINER

Notice of References Cited	Application/Control No. 10/052,199	Applicant(s)/Patent Under Reexamination SHENNIB ET AL.	
	Examiner Dionne N Harvey	Art Unit 2643	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6,229,900	05-2001	Leenen, Joseph R. G. M.	381/314
	B	US-6,473,511	10-2002	Aceti et al.	381/322
	C	US-6,359,993	03-2002	Brimhall, Owen D.	381/328
	D	US-5,701,348	12-1997	Shennib et al.	381/328
	E	US-5,572,954	11-1996	Elkins, Gerald A.	119/502
	F	US-6,473,513	10-2002	Shennib et al.	381/328
	G	US-6,137,889	10-2000	Shennib et al.	381/328
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
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	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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NOV 24 2006
OFFICE OF PETITIONS

In re Application of :
Shennib et al. :
Application No. 10/052,199 : ON PETITION
Filed: 16 January, 2002 :
Atty. Dkt. No. 022176-000610US :

This is a decision on the renewed petition to withdraw holding of abandonment, filed on 19 September, 2006.

This application became abandoned on 11 December, 2004, for failure to timely respond to Notice of Allowance and Fee(s) Due mailed on 10 September, 2004, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 18 April, 2006. The petition filed on 25 May, 2006, was dismissed on 19 July, 2006.

Petitioners assert, at the outset, that the Notice of Allowance mailed on 10 September, 2004, was never received.

A review of the record indicates no irregularity in the mailing of the Office communication mailed on 10 September, 2004, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to 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 non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1] For example, if a three-month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from

[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

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

Petitioner has not provided the showing as required above.

Furthermore, the showing of record is that the Notice of Allowance and Fee(s) Due was mailed to Donald R. Greene, P.O. Box 12995, Scottsdale, AZ 85267-2995. On 13 September, 2004, however, a Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address was filed, changing the correspondence Address to the address associated with Customer No. 20350, which is Townsend and Townsend and Crew, LLP, Two Embarcadero Center, Eighth Floor, San Francisco, CA 94111-3834.

As such, a question is raised as to whether petitioners were receiving mail at the address of record at the time the Notice of Allowance and Fee(s) Due was mailed. Petitioners must verify that they were, in fact, receiving mail at the correspondence address listed in the Notice at the time the Notice was mailed, and for a reasonable time thereafter. The showing of record leads to a conclusion that the Office action may have been lost after receipt at the address of record because petitioners were no longer receiving mail at that address, rather than being lost in the mail.

Any renewed petition must provide the required showing that petitioners were receiving mail at the address listed on the Notice of Allowance and Fee(s) Due at the time the Notice was mailed.

Accordingly, the showing of record is insufficient to warrant withdrawal of the holding of abandonment at this time.

With regard to petitioners' argument that they did not see the Notice mailed on 10 September, 2004, in PAIR at the time the petition filed on 25 May, 2006, was filed, such does not merit withdraw of the holding of abandonment. MPEP 103 states that the Image File Wrapper (IFW) is the official record of the application. As such, the showing of record is that said Notice was in fact mailed on 10 September, 2004, and, as such, the

application became abandoned for failure to respond to said Notice.

Lastly, petitioners' assertion "that the Patent Office itself deemed that the application was still pending on 10/17/05 as evidenced by the Supplemental Notice of Allowance (*sic*) mailed on 10/17/05" is not persuasive. 35 U.S.C. 151 states that the application shall be regarded as abandoned if the issue fee is not paid within three months of the mailing of the Notice of Allowance. As such, the showing of record is that the application became abandoned as a matter of law for failure to timely pay the issue and publication fees in response to the Notice of Allowance mailed on 10 September, 2004. The supplemental Notice of Allowability mailed on 17 October, 2005, did not set a new time period for payment of the issue and publication fees, and had no bearing on the due date for the issue and publication fees. No new Notice of Allowance and Fee(s) Due was mailed, and the fact that petitioners believe that a new time period for payment of the issue and publication fee(s) should have been set is not more persuasive than the showing of record in the official file. As such, the time period set forth in the Notice of Allowance mailed on 10 September, 2004, remained in effect.

As such, the showing of record is that the abandonment resulted from the failure to petitioners to respond to the Notice of Allowance and Fee(s) Due, mailed on 10 September, 2004 rather than an error on the part of the USPTO.

Therefore, the application is properly held abandoned.

The petition is again **DISMISSED.**

Petitioners are encouraged to consider the filing of a petition under 37 CFR 1.137(b) to revive the application.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision.

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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TWO EMBARCADERO CENTER
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SAN FRANCISCO CA 94111-3834

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MAR 13 2007

OFFICE OF PETITIONS

In re Application of :
Shennib et al. :
Application No. 10/052,199 : DECISION ON PETITION
Filed: 16 January, 2002 :
Atty Docket No. 022176-000610US :

This is a decision on the petition filed on 27 December, 2006, which is treated as a renewed petition under 37 CFR 1.181, and, in the alternative, as a petition under 37 CFR 1.137(b).[1]

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

The petition is **GRANTED**.

The application became abandoned on 11 December, 2004, for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed on 10 September, 2004, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 18 April, 2006. The petition filed on 25 May, 2006, was

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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)).

dismissed on 19 July, 2006. The petition filed on 19 September, 2006, was dismissed on 24 November, 2006.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioners request reconsideration of the decision mailed on 24 November, 2006, but have presented no new arguments or evidence in support of reconsideration. As such, the petition to withdraw the holding of abandonment is again **dismissed**.

PETITION UNDER 37 CFR 1.137(b)

The petition is **granted**.

The issue and publication fees have been received.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN M. JOHNSON
KAYE SCHOLER LLP
425 PARK AVENUE
NEW YORK, NY 10022

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NOV 23 2005

OFFICE OF PETITIONS

In re Application of :
Ronald Steven Niles et al :
Application No. 10/052,208 : ON PETITION
Filed: January 17, 2002 :
Attorney Docket No. 34826-1009

This is a decision on the petition, filed November 21, 2005 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2188 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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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JAN 27 2006

OFFICE OF PETITIONS

ANDERSON, KILL & OLICK, P.C.
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020-1182

In re Application of :
Shigeru Nojima, et al. :
Application No. 10/052,225 : DECISION GRANTING PETITION
Filed: January 16, 2002 : UNDER 37 CFR 1.55(c)
Attorney Docket No. MM4462 :

This is a decision on the petition under 37 CFR 1.55(c), filed October 27, 2005, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) or 365(a) for benefit of the filing date of Japanese patent application numbers 125991/1994 filed June 8, 1994 and 125991/1994 filed June 8, 1994 respectively.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **granted**.

The application is being referred to the Office of Publications for further processing.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PATRICK W. RASCHE
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63102

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MAY 13 2005

OFFICE OF PETITIONS

In re Application of :
Fletcher et al. :
Application No. 10/052,236 : ON PETITION
Filed: January 16, 2002 :
Attorney Docket No. 40027.003 :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed October 14, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 15, 2005. A Notice of Abandonment was mailed on February 22, 2005.

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

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

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

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

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COMMISSIONER FOR PATENTS
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Michael J. Ure
Philips Electronics North America Corp.
1109 McKay Drive
MS41-SJ
San Jose, California 95131

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MAY 27 2005

OFFICE OF PETITIONS

In re Application of
Jensen Hartrung Jensen
Application No. 10/052,277
Filed: 17 January 2002
Attorney Docket No. US02 8005

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed 15 April 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 22 June 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 22 September 2004.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Response under 37 CFR 1.111, (2) the petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of 22 June 2004 is accepted as having been unintentionally delayed.

The matter is being referred to Technology Center Art Unit 2112.

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

NNH/WL:hn

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7-12-08

Paper No.: _____

TO SPE OF : ART UNIT 2600

SUBJECT : Request for Certificate of Correction on Patent No.: 7012916

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:

SPE

2616
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. 16

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

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JUL 11 2002

OFFICE OF PETITIONS

In re Application of :
Hamazaki et al. :
Application No. 10/052,286 : DECISION GRANTING PETITION
Filed: October 19, 2002 :
Attorney Docket No. :
16869N-037200US :

This is a decision on the Petition to Correct Filing Date (37 CFR 1.10(c)) and Request for Refund, filed April 22, 2002. Petitioner requests that the above-identified application be accorded a filing date of October 19, 2002, instead of the presently accorded date of January 19, 2002.

Petitioner alleges the application was deposited in "Express Mail" service with the U.S. Postal Service, on October 19, 2002. In support, Petitioner provides a copy of the Express Mail label, receipt number EL525753230US, with a "Date-In" of October 19, 2002. The Express Mail label contains a United States Postal Service (USPS) stamp of October 19, 2002. The same Express Mail label number was placed on the original application papers located in the official file.

The Office considers the date the correspondence is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail mailing label. *See* MPEP §513. The date indicated on the "date-in" on the Express Mail mailing label verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on October 19, 2002.

In view of the foregoing, this Petition in **Granted**.

This application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to October 19, 2002.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

William W. Haefliger
Suite 512
201 So. Lake Ave.
Pasadena CA 91101

COPY MAILED
APR 25 2006
OFFICE OF PETITIONS

In re Patent of :
Mirzayi, et al. :
Patent No. 6,905,603 :
Issue Date: June 14, 2005 : Decision on Petition
Application No. 10/052,295 :
Filing Date: January 18, 2002 :
Attorney Docket No. 12,339 :

This is a decision on the petition under 37 CFR 1.183, filed January 5, 2005, to waive the rules and accept the correction of the assignee data on the front page of the above-identified patent. The petition is being treated as a request under 37 CFR 3.81(b) to accept the correction of the assignee data.

The request under 37 CFR 3.81(b) is **granted**.

Effective June 25, 2004, 37 CFR 3.81(b) has been revised to no longer require the correction of the assignee data prior to issuance of the patent. Therefore, a petition to waive the rule is unnecessary. 37 CFR 3.81(b) currently states:

> Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Petitioners have met the requirements set forth above. Deposit account no. 08-0188 will be charged the $100.00 Certificate of Correction fee. The request is granted.

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

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

E. Shirene Willis
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Suite 512
201 So. Lake Ave.
Pasadena CA 91101

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APR 25 2006
OFFICE OF PETITIONS

In re Patent of :
Mirzayi, et al. :
Patent No. 6,905,603 :
Issue Date: June 14, 2005 : Decision on Petition
Application No. 10/052,295 :
Filing Date: January 18, 2002 :
Attorney Docket No. 12,339 :

This is a decision on the petition under 37 CFR 1.183, filed January 5, 2005, to waive the rules and accept the correction of the assignee data on the front page of the above-identified patent. The petition is being treated as a request under 37 CFR 3.81(b) to accept the correction of the assignee data.

The request under 37 CFR 3.81(b) is **granted**.

Effective June 25, 2004, 37 CFR 3.81(b) has been revised to no longer require the correction of the assignee data prior to issuance of the patent. Therefore, a petition to waive the rule is unnecessary. 37 CFR 3.81(b) currently states:

> Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Petitioners have met the requirements set forth above. Deposit account no. 08-0188 will be charged the $100.00 Certificate of Correction fee. The request is granted.

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

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

E. Shirene Willis
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 13

HEWLETT PACKARD COMPANY
P.O. BOX 272400
3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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JUN 2 9 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Colin Low et al :
Application No. 10/052,305 :
Filed: January 18, 2002 :
Attorney Docket No. B-3472DIV1PCT619164-7 :

This is a decision on the petition, filed June 24, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 8, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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.

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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).

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2664 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:
RICHARD P. BERG
LADAS & PARRY
5670 WILSHIRE BLVD., STE. 2100
LOS ANGELES, CA 90036-5679

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

Laura A. Majerus
FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

In re Application of:
Pankaj S. Parekh.
Application No. 10/052,328
Filed: January 17, 2002
For: SYSTEM AND METHOD FOR DECTCTION OF INTRUSION ATTACKS ON PACKETS TRANSMITTED ON A NETWORK

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 22, 2004.

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

The request filed March 22, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

for James R. Matthews

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

cc: Greg O'Hara
THELEN REID & PRIEST, LLP
225 W. Santa Clara Street, Suite 1200
San Jose, CA 95113

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

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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JUN 18 2002

OFFICE OF PETITIONS

In re Application of
Imanaka, et al.
Application No. 10/052,338
Filed: January 23, 2002
Attorney Docket No. 03500.013949.1

DECISION ON
PETITION

This is a decision on the petition, filed May 14, 2002, requesting, in effect, withdrawal of the Notice to File Corrected Application Papers (Notice), mailed April 16, 2002.

The application was deposited on January 23, 2002. On April 16, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that pages 25-47 of the specification and appeared to have been omitted and that an abstract was not provided for the above-identified application.

In response to the Notice, petitioners timely filed the present petition on May 14, 2002. Petitioners request that pages 25-47 and an abstract be accorded a filing date of January 23, 2002 on the basis that the specification, claims and abstract were received in the Patent and Trademark Office (PTO) on January 23, 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 23, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 61 pages of specification, claims and abstract

The return postcard constitutes *prima facie* evidence that 61 pages of specification, claims and abstract were filed on January 23, 2002. MPEP 503. Pages 25-47 are part of the 61 pages filed on January 23, 2002. However, the abstract submitted with the instant petition is on page 62. Applicants' itemized postcard receipt covers only up to and including page 61. Accordingly, the request is granted with respect to withdrawing the Notice as it pertains to pages 25-47, but dismissed with respect to withdrawing the Notice as it pertains to the abstract being omitted.

A $130.00 petition fee will be charged to petitioners' deposit account no. 06-1205.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **January 23, 2002**, using the copy of pages 25-47 submitted with the instant petition and the newly filed abstract.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
JAMES A. GREEN SR., ET AL
Application No. 10/052,344
Filed: January 23, 2002
For: **SATELLITE BROADCAST RECEIVING AND DISTRIBUTION SYSTEM**

DECISION ON PETITION TO MAKE SPECIAL
37 CFR 1.102

This is a decision on the petition under 37 C.F.R. §1.102, filed August 26, 2003, to make the above-identified application special.

Petitioner requests that the above-identified application by made special under the accelerated examination procedure set forth in 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, IV must include a showing, as by a birth certificate or applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration showing that he is sixty five (65) years of age or more.

Accordingly, the petition is **GRANTED**.

The application is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he should make a rigid search for such, he is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.
If the examiner finds any interfering application for the same subject matter, she should consider such application simultaneously with this application and should state in the official letter of such application that she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and

Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

The petition is granted to the extent indicated.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 5

NIXON & VANDERHYE P.C.
8th Floor
1100 North Glebe Road
Arlington VA 22201-4714

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JUL 1 8 2002

OFFICE OF PETITIONS

In re Application of :
Miyamoto et al. :
Application No. 10/052,365 :
Filed: January 23, 2002 : DECISION ON PETITION
Attorney Docket No. 723-1250 :

This is a decision on the Petition to Withdraw Notice of Omitted Items, filed on April 18, 2002, requesting the application be accorded a filing date of January 23, 2002, including Figures 27I and 27J as part of the original disclosure.

The application was filed on January 23, 2002. However, on April 2, 2002, the Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application (hereinafter "Notice"), requiring Figures 27I and 27J described in the specification.

Petitioner argues, *inter alia*, that Figures 27I and 27J described in the specification were included among 57 pages of drawings filed initially, on January 23, 2002, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of 57 pages of drawings filed on January 23, 2002.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of 57 pages of drawings, by this Office on January 23, 2002. Petitioner has also re-submitted Figures 27I and 27J, described in the specification, with the instant petition.

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

The petition is **granted**. The Notice is hereby withdrawn.

The copy of Figures 27I and 27J, described in the specification, supplied on April 18, 2002, will be used for examination purposes.

No petition fee is required. A refund of the petition fee, $130.00, has been scheduled.

The application will be returned to the Initial Patent Examination Division for further processing as a nonprovisional application with a filing date of January 23, 2002, using figures 1-27H and 28A - 34B submitted on January 23, 2002, and figures 27I - 27J submitted on April 18, 2002. The Office record should reflect 44 sheets of drawings were present on filing.

Thereafter, the application will be returned to Technology Center AU 3713 for processing in due course.

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
Office of the Deputy Commissioner
for Patent Examination Policy

Conferee: Christina Donnell, Esq.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

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AUG 1 8 2006

OFFICE OF PETITIONS

In re Application of :
Anil K. Saksena et al :
Application No. 10/052,386 : ON PETITION
Filed: January 18, 2002 :
Attorney Docket No. IN01159K1 :

This is a decision on the petition, filed August 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 September 15, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The instant petition under 37 CFR 1.313(c)(2), the RCE and the Amendment, filed on September 15, 2005, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Harvey L. Cohen appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he act. However, if Mr. Cohen 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. Cohen, the petitioner herein. Until otherwise instructed, all future correspondence regarding

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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).

this application file will be directed solely to the above-noted correspondence address of record.

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

This matter is being referred to Technology Center AU 1653 for processing of the request for continued examination under 37 CFR 1.114 filed August 17, 2006.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

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

Stanley R. Moore, Esq.
Jenkens & Gilchrist, P.C.
Suite 3200
1445 Ross Avenue
Dallas, TX 75202-2799

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OFFICE OF PETITIONS

In re Application of
Gangi
Application No. 10/052,405
Filed: January 17, 2002
Attorney Docket No. 34283-00010USP1

DECISION GRANTING PETITION

This is a decision on the petition filed March 1, 2002, to establish that Figure 6 was submitted with the original application papers.

The application was filed on January 17, 2002. On February 12, 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 January 17, 2002, and advising applicants that Figure 6 described in the specification appeared to have been omitted.

Upon review of the record, Figure 6, deposited on January 17, 2002, has been located. Therefore the application was complete on filing.

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

The petition fee of $130 submitted with the petition has been scheduled to be refunded.

The Notice mailed February 12, 2002 was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 17, 2002, using the application papers filed on January 17, 2000, including Figure 6 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

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8/27/09

Patent No. :7533328
Ser. No. :10/052413
Inventor(s) :Idan Alrod et al.
Issued : 5/12/09
Title : QUEUE PAIR CONTEXT CACHE
Docket No. :

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.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

Dr. Mark. Freidman, ltd.
c/o Discovery Dispatch
900 3 Florin Way
Upper Marlboro, MD 20772

HR

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OFFICE OF PETITIONS

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

In re Patent No. 7,571,132 :
Cole :
Issue Date: August 4, 2009 :
Application No. 10/052,419 : DECISION ON REQUEST FOR
Filed: January 18, 2002 : RECONSIDERATION OF
Attorney Dkt. No. 10850.0001-00 : PATENT TERM ADJUSTMENT
Title: Forfaiting Transaction :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-POST GRANT," filed October 02, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from one thousand five hundred ninety-four (1594) days to two thousand two hundred sixty-six (2266) days.

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

On August 4, 2009, the above-identified application matured into US Patent No. 7,571,132 with a patent term adjustment of 1594 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under 35 U.S.C. §154(b)(1)(A) overlaps with a delay under 35 U.S.C. §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that 761 of 1659 days due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), does not overlap with the 1570 day period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), as these periods do not occur on the same day. Thus,

patentees request that the determination of patent term adjustment be increased to a total of two thousand two hundred sixty-six (2266 days) (the sum of the period of three-year delay (1659 days) and the period of examination delay (1570 days) less applicant delay (65) days less overlap (898 days).

The Office finds that as of the issuance of the patent on August 4, 2009, the application was pending three years and 1659 days after its filing date (January 18, 2005 to August 4, 2009). A period of adjustment of 1570 days was entered for Office delay pursuant to 37 CFR 1.702(a)(1) and (a)(4).[1] At issue is whether patentee should accrue an additional 1659 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 1570 days for Office failure to take a certain action within a specified time frame (or examination delay).

Patentee's calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

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

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

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[1] It should also be noted that 89 days was entered upon issuance of the patent pursuant to 37 CFR 1 .703(b).

154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, January 18, 2002 until the issuance of the patent on August 4, 2009. 1570 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within specified time frames during the pendency of the application. Entry of both 1659 days pursuant to 37 CFR §1.702(b) and 1570 days pursuant to 37 CFR §1.702(a) is neither permitted nor warranted. The Office did not delay 1570 days and then another 1659 days. The greater period, 1659 days, is the actual number of days

issuance of the patent was delayed by the Office. All but 89 days of the periods pursuant to 37 CFR §§1.702(a) and 1.702(b) overlap. Accordingly, at issuance the Office entered an additional 89 days of patent term adjustment for taking in excess of three years to issue the patent for a total Office delay of 1659 days.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent was 1594 (1570 + 89 - 65) days.

In view thereof, no adjustment to the patent term will be made.

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

/Kery A. Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of 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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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: Tara Kimbrell Cole	: DECISION ON REQUEST FOR
Patent Number	: 7571132	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/052,419	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/18/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2266** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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. None

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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MAY 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Shigeki Matsutani	:	
Application No. 10/052,463	:	DECISION ON PETITION
Filed: January 23, 2002	:	UNDER 37 C.F.R. §1.181
Attorney Docket Number:	:	
00862.022493	:	
Title: INFORMATION PROCESSING	:	
METHOD AND APPARATUS	:	

This is a decision on the petition filed March 14, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed July 13, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting formal drawings[1]. Accordingly, the above-identified application became abandoned on October 14, 2005. A Notice of Abandonment was mailed on January 6, 2006.

With the present petition, Petitioner has asserted that no corrected drawings were required. The Notice of Allowability has been reviewed, and it is clear that although the cover sheet indicates that corrected drawings were required, the text of the detailed action expressly indicates that the drawings were approved.

The Examiner has reviewed this notice, and has determined that the notation on the cover sheet was made in error. As such, the

1 See MPEP §710.02(e).

drawings have been approved, and corrected drawings are not required.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the holding of abandonment in the above-identified application be withdrawn. It is noted that the issue and publication fees were timely submitted.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Office of Patent Publication will be notified of this decision, so that this application can be processed into a patent.

The phone number for the Office of Patent Publication is (571) 272-4200. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DICKINSON WRIGHT PLLC
Suit 800
1901 L Street, N.W.
Washington, DC 20036

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DEC 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Ming-Kwei Lee :
Application No. 10/052466 :
Filing or 371(c) Date: 01/23/2002 :
Patent No.: 6858873 :
Issue Date: 02/22/2005 :
Attorney Docket No. :
70434-0024 :

This is a decision on the "Petition Under 37 CFR 3.81(b) to Add Assignee"[1], filed March 29, 2006, requesting a change in the name of the assignee after payment of the issue fee. The delay in treating this petition is regretted.

The Petition is **granted**.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Derek L. Woods
Attorney
Office of Petitions

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 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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PARSONS HSUE & DE RUNTZ LLP
655 MONTGOMERY STREET
SUITE 1800
SAN FRANCISCO, CA 94111

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MAR 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Brian N. Kuo, et al. :
Application No. 10/052,472 : DECISION GRANTING PETITION
Filed: January 17, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. M-12510 US :

This is a decision on the petition, filed September 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 January 9, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the 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 2878 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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6838654	2005-01-04	10052472	2002-01-17	LY-09009

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	/TWT/	Date (YYYY-MM-DD)	2009-10-28
Name	Thomas W. Tolpin	Registration Number	27600

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6838654
Issue Date: January 4,2005
Application No. 10052472
Filed: January 17,2002
Attorney Docket No. M-12510 US

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

This is a decision on the electronic petition, filed October 28,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 28,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

PILLSBURY WINTHROP LLP
1600 Tysons Boulevard
McLean VA 22102

COPY MAILED

JUL 2 0 2004

OFFICE OF PETITIONS

In re Application of
Wang et al.
Application No. 10/052,475
Filed: January 17, 2002
Title of Invention: CHEMICAL MECHANICAL POLISHING ENDPOINT DETECTION

DECISION ON PETITIONS
UNDER 37 CFR 1.48 AND 1.183

This is in response to the "Petition For Acceptance Of Application Refusal By Inventor To Join (37 CFR 1.47) filed on April 2, 2004 which is being treated as a petition under 37 CFR 1.48 and 37 CFR 1.183.

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," 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).

Petitioner seeks to add inventor Efrain Velazquez to the inventive entity. However, Mr Velazquez has failed to execute the declaration and the statement to support the request to change inventorship.

The petition filed under 37 CFR 1.48 is **DISMISSED**.
The petition filed under 37 CFR 1.183 is **DISMISSED**.

Petition Under 37 CFR 1.48

A grantable petition under 37 CFR 1.48 (a) requires: (1) a request to correct the inventorship that sets forth the desired inventorship change; (2) a statement from each person being added as an inventor and from each person being deleted as an inventor

that the error in inventorship occurred without deceptive intention on his or her part; (3) an oath or declaration by the actual inventor or inventors as required by §1.63 or as permitted by §§ 1.42, 1.43 or §1.47; (4) the processing fee set forth in §1.17(I); and (5) if an assignment has been executed by any of the original named inventors, the written consent of the assignee.

As to item (2) petitioner has failed to provide a written statement from inventor Efrain Velazquez indicating the error in inventorship occurred without deceptive intent.

As to item (3), petitioner has failed to submit an executed oath or declaration which states the entire inventive entity

As to item (5), petitioner has failed to provide the consent of the assignee.

Accordingly, the 37 CFR 1.48 petition can not be granted without the above including an executed oath or declaration or a grantable petition under 37 CFR 1.183.

Petition Under 37 CFR 1.183

The petition filed on April 2, 2004 is being treated under 37 CFR 1.183. Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires."

Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603. This application bears a Declaration executed by five inventors thus, the provisions of 37 CFR 1.47 do not apply in this instance. Nevertheless, it is appropriate to apply the principles thereof to the situation at hand.

When a petitioner seeks a waiver of the 1.48 statement regarding lack of deceptive intent the requirement that inventor sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a).

Petitioner has failed to submit an executed declaration which lays out the entire inventive entity.

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

Pursuant to petitioner's request deposit account 50-2213 is being charged the $130.00 petition fee pursuant to 37 CFR1.17(h).

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 (571) 273-0025 (After September 28, 2004)
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 related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petition 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. 16

PILLSBURY WINTHROP LLP
1600 Tysons Boulevard
McLean VA 22102

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OCT 29 2004

OFFICE OF PETITIONS

In re Application of
Wang et al.
Application No. 10/052,475
Filed: January 17, 2002
Title of Invention: CHEMICAL MECHANICAL POLISHING ENDPOINT DETECTION

: DECISION ON PETITION

This is in response to the renewed petitions filed under 37 CFR 1.48 and 1.183 filed on September 20, 2004

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," 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 petitions are **dismissed**.

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

As to item (5), petitioner has failed to provide the consent of the assignee. A review of the record shows petitioner has failed to submit the written consent of the assignee

pursuant to 37 CFR 1.48 (a) (5).

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) 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 related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petition 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

PILLSBURY WINTHROP LLP
1600 Tysons Boulevard
McLean VA 22102

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JAN 21 2005

OFFICE OF PETITIONS

In re Application of
Wang et al.
Application No. 10/052,475
Filed: January 17, 2002
Title of Invention: CHEMICAL MECHANICAL POLISHING ENDPOINT DETECTION

: DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.183, filed November 22, 2004, to waive the rules of 37 CFR 1.48 (a)(2) to accept the executed declaration and a petition filed under 37 CFR 1.47.

The petition under 37 CFR 1.183 is **Granted**.
The petition under 37 CFR 1.48(a)(2) is **Granted.**
The petition under 37 CFR 1.47 is **Granted.**

Inventor Velazquez has been added to the inventive entity. Petitioner has provided sufficient evidence to establish inventor Velazquez has refused to execute the statement under 37 CFR 1.48(a)(2). Inventors failure to respond to the application sufficiently establishes that the non-signing inventor refuses to execute the application papers.

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petition 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

Gunnar G. Leinberg, Esq.
Nixon Peabody LLP
Clinton Square
P.O. Box 31051
Rochester NY 14603-1051

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AUG 07 2008

In re Application of :
RAIet al. :
Application No. 10/052,505 : DECISION ON PETITION
Filed: 02/01/2002 :
Attorney Docket No. D/A1472 (1508/3540) :

This is a decision on the petition under 37 CFR 1.137(b), filed May 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely and proper reply within the meaning of 37 CFR 1.113 to the final Office action, mailed October 16, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 17, 2008. A Notice of Abandonment was mailed on May 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that applicant has supplied (1) the reply in the form of a RCE, the RCE fee, and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2625 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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9-28-06

TO SPE OF : ART UNIT 2623

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/052511 Patent No.: 7055783

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.

chek cds.

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: The CofC changes could not be located in the published Patent. Terms pointed to by column + Line do not correlate.

PAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
SPE

2623
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SEP 06 2005

Director's Office
Group 3700

Haugen Law Firm
Suite 1130 TCF Tower
121 South Eighth Street
Minneapolis, MN 55402

In re application of
Ronald D. Matich

Serial Number: 10/052,532
Filed: January 18, 2002

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **FACE MASK WITH SEAL AND NEUTRALIZER**

This is a decision on the petition filed on April 27, 2005, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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

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

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 9/02/05

20 JAN 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

20 JAN 2004

James A. Oliff
P. O. Box 19928
Oliff & Berridge, PLC
Alexandria, Virginia 22320

In re Application of:	:	
GROSS ET AL.	:	DECISION ON
Application No.: 10/052,559	:	PETITION
Filing Date: 23 January 2002	:	UNDER 37 CFR 1.137(b)
Docket No.: 115515	:	
For: TOOTHBRUSH	:	

Applicants' petition under 37 CFR 1.137 (b) filed 06 May 2003 to revive international application PCT/CH00/00290 abandoned 35 USC 371(d) is hereby **GRANTED** as to the National Stage in the United States of America as follows:

International application PCT/CH00/00290 became abandoned as to the United States of America at midnight on 15 January 2002 for failure to pay the basic national fee.

The filing of the present continuing application under 35 USC 111(a) is accepted as the appropriate response under 37 CFR 1.137(b) (See MPEP Section 711.03(c)). International application PCT/CH00/00290 is being revived for purpose of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 10/052,559.

This application is being forwarded to Technology Center 3700 for continued prosecution on the merits.

Shih-yung Hsieh
PCT Legal Detailee
PCT Legal Office
Telephone: (703) 308-6162
Facsimile: (703) 308-6459

Boris Milef
PCT Legal Examiner
PCT Legal Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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MAIL

Paper No. 10

EITAN, PEARL, LATZER & COHEN ZEDEK LLP
10 ROCKEFELLER PLAZA, SUITE 1001
NEW YORK NY 10020

JUN 0 7 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Ram Zamir
Application No. 10/052,567
Filed: January 23, 2002
For: **CROSSTALK MITIGATION IN A MODEM POOL ENVIRONMENT**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the Petition to Withdraw Holding of Abandonment filed March 30, 2004, pursuant to 37 C.F.R.§ 1.181(a). No fee is required.

The petition is **GRANTED.**

This application became abandonment for failure to timely file a proper response to the Restriction Requirement mailed June 26, 2003 which set a shortened statutory period of one (1) month to reply. That period lapsed without reply, rendering this application abandoned as July 26, 2003. A Notice of Abandonment was mailed on March 11, 2004.

Petitioner alleges to have timely filed a response to the Restriction Requirement on July 21, 2003. To support this position, Petitioner has included with the instant petition, a copy of the postcard receipt, for the filing of the Response to Restriction Requirement on July 21, 2003 and a copy of the Response to the Restriction Requirement.

The original correspondence filed was not matched with the file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file is being forwarded to the Technology Center's technical support staff for entry of the copy of the amendment submitted with the petition. From there, the application file will be forwarded to the examiner for appropriate action in due course.

It is noted that the IDS dated September 28, 2003 was received by the Office on October 1, 2003 and has been placed in the application file.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, 7TH FLOOR
LOS ANGELES, CA 90025-1030

COPY MAILED

NOV 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Norio Sato et al :
Application No. 10/052,640 : DECISION GRANTING PETITION
Filed: January 18, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 96790P381 :

This is a decision on the petition under 37 CFR 1.313(b)(5), filed November 1, 2005, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 2858 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 or the amount due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : June 04, 2008

TO SPE OF : ART UNIT 2858

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/052640 Patent No.: 7123026 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: _____

DIEGO GUTIERREZ
SUPERVISORY PATENT EXAMINER

2831

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

DENNIS L. THOMTE
THOMTE MAZOUR & NIEBERGALL, LLC
SUITE 1111
2120 SOUTH 72ND STREET
OMAHA, NE 68124

COPY MAILED

JAN 22 2008

OFFICE OF PETITIONS

In re Application of :
Richard C. Hugg :
Application No. 10/052,655 : DECISION ON PETITION
Filed: January 18, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. :

This is a decision on the petition, filed November 9, 2007, 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 May 8, 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 May 1, 2008 accompanies this decision on petition.

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

This application is being referred to Technology Center Art Unit 3612 for examination in due course.

Irvin Dingle
Petition Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/08/10

TO SPE OF : ART UNIT 2442

SUBJECT : Request for Certificate of Correction for Appl. No.: 10052682 Patent No.: 7233983

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.

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

Comments: _____

[signature] for Andrew Caldwell — **SPE**

2442 — **Art Unit**

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

ATTORNEY DOCKET NUMBER: 10019569-1

IN RE APPLICATION OF: U.S. Patent No. 7,233,983

USPTO CONFIRMATION CODE: 3815

APPLICATION NO.: 10/052,682

FILED: Jan. 17, 2002

EXAMINER: Robert B. Harrell

GROUP ART UNIT: 2142

FOR: RELIABILITY FOR INTERCONNECT FABRICS

37 CFR 1.322 & 37 CFR 1.323 REQUEST FOR CERTIFICATE OF CORRECTION

HONORABLE COMMISSIONER OF PATENTS & TRADEMARKS

Sir:

The following is a request for a certificate of correction in Serial Number 10/052,682, now Patent Number 7,233,983.

A certificate of correction under 35 USC 254 is respectfully requested in the above-identified patent.

☐ All errors were the fault of the USPTO, no fee required. In the event that a further fee is required, please charge the amount to Deposit Account No. 082025.

☐ All errors were the fault of the applicant and, accordingly, please charge **$100.00** to our Deposit Account No. 082025. In the event that a further fee is required, please charge the amount to the same Deposit Account.

☒ The errors were the fault of both the applicant and USPTO and, accordingly, please charge **$100.00** to our Deposit Account No. 082025. In the event that a further fee is required, please charge the amount to the same Deposit Account.

The exact locations where the errors appear in the patent and patent application are as follows:

In column 11, line 56, in Claim 6, delete "claim 1" and insert - - claim 11 - -, therefor.
(Amendment to claims filed on Dec. 18, 2006, page 5, in Claim 36, line 1)

In column 12, line 15, in Claim 11, after "sets" delete "tat" and insert - - that - -, therefor.
(Amendment to claims filed on Dec. 18, 2006, page 4, in Claim 31, line 12)

In column 13, line 11, in Claim 25, after "nodes" insert - - for - -.
(Amendment to claims filed on Dec. 18, 2006, page 3, in Claim 15, line 8)

The requested corrections are attached on Form PTO 1050.

Respectfully Submitted

___3/1/2010____
DATE

__/Lloyd E. Dakin, Jr., Reg. # 38,423/_
Name: Lloyd E Dakin
Registration No.: 38,423

Attorney/Agent of Record

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

APPROVED: /R.H./

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 : 7,233,983

APPLICATION NO. : 10/052,682

ISSUE DATE : Jun 19, 2007

INVENTOR(S) : Julie Ann Ward, et al.

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

In column 11, line 56, in Claim 6, delete "claim 1" and insert - - claim 11 - -, therefor.

In column 12, line 15, in Claim 11, after "sets" delete "tat" and insert - - that - -, therefor.

In column 13, line 11, in Claim 25, after "nodes" insert - - for - -.

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

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

This collection of information is required by 37 CFR 1.322, and 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 Patent, 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.

APPROVED: /R.H./

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 14 2004

MINTZ, LEVIN, COHN, FERRIS
GLOVSKY and POPEO, PC
ONE FINANCIAL CENTER
BOSTON, MA 02111

#14

In re Application of	:
Steeven R. Gullans et al	:
Serial No.: 10/052,691	: PETITION DECISION
Filed: January 18, 2002	:
Attorney Docket No.: 18989-016	:

This is in response to the petition under 37 CFR 1.181, filed October 8, 2004, requesting withdrawal of abandonment based on timely filing of a reply.

A review of the file history shows that the examiner mailed an Office action to applicants on September 10, 2003, setting a three month shortened statutory period for reply. On October 4, 2004, the Office mailed a Notice of Abandonment to applicants for failure to file a reply to the Office action. Applicants state that a reply, including a three month extension of time request and fee therefor, was filed on March 10, 2004, by Express Mail, and provide a copy thereof and a copy of an Office date stamped return postcard indicating receipt by the Office on March 10, 2004. The original reply has not been located and the copy provided with the petition will be utilized in lieu thereof. In view of the timely reply, the Notice of Abandonment was mailed in error and is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for further action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number

Bruce M. Kisliuk
Director, Technology Center 1600

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

Paper No. 12

PARSONS HSUE & DE RUNTZ LLP
685 MONTGOMERY STREET
SUITE 1801
SAN FRANCISCO CA 94111

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SEP 25 2003

OFFICE OF PETITIONS

In re Application of	:	
Richard L. Barrett	:	DECISION ON PETITION
Application No. 10/052,732	:	UNDER 37 CFR 1.137(f)
Filed: 18 January, 2002	:	
Atty Docket No. M-12044 US	:	

This is a decision on the petition under 37 CFR 1.137(f), filed on 21 July, 2003, which is being treated as a petition filed under 37 CFR 1.137(b) to revive the above identified nonprovisional application.

The petition is **GRANTED**.

The above-identified application became abandoned pursuant to 35 USC 112(b)(2)(B)(iii) for failure to timely notify the United States Patent and Trademark Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by the following: (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty; (2) the petition fee as set forth in 37 CFR 1.17(m); and, (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition is in compliance with the requirements of

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[illegible]

37 CFR 1.137 f). Accordingly, applicant's failure to notify the Office timely of a foreign filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) is accepted as an unintentionally delayed. A review of Office records indicates that this application was published on 24 July, 2003, as a result of applicant filing a Request to Rescind Previous Nonpublication Request on 22 January, 2003.

There is no indication that a reply to the Office action under *Ex parte Quayle*[2] of 19 March, 2003, has been filed. Accordingly, a shortened statutory period of TWO (2) months for reply to the Office action of 19 March, 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 the undersigned at (703) 308-6918.

This application is being forwarded to Technology Center Art Unit 1753 to await a reply to the Office action, the period of which is restarted to run from the mailing date of this decision on petition as noted above.

/D.Wood/

Douglas Wood
Senior Petitions Attorney
Office of Petitions

---

[2] 1935 C.D. 11, 453 O.G. 213.

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.
10/052,735	01/18/2002	Robert Sesek	10016958-1	3209

7590 06/24/2003

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

EXAMINER	
VU, KIM Y	
ART UNIT	PAPER NUMBER
2172	

DATE MAILED: 06/24/2003

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

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

Paper No. 5

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

In re Application of Boise et al.)
Application No. 10/052,735)
Filed: January 18, 2002) DECISION ON PETITION

This is a decision on petition for adding the name(s) of the inventor(s) who was invented the invention but through error was not named as an inventor, under 37 CFR 1.48(a), filed March 25, 2003. However, this petition lacks a written consent of the assignee as required under 37 CFR 1.48(a).

The petition for correcting inventorship is DENIED.

Kim Yen Vu
Supervisory Patent Examiner
Art Unit 2172
(703)305-4393

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD
SUITE 100
PALO ALTO, CA 94303

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SEP 27 2006

OFFICE OF PETITIONS

In re Application of :
Nicholas deBeer et al : DECISION ON PETITION
Application No. 10/052,758 : UNDER 37 CFR 1.137(b)
Filed: January 18, 2002 :
Attorney Docket No. TSNMNP00100 :

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

The petition is **granted**.

This application became abandoned for failure to timely reply to the Notice of Non-Compliant Amendment, mailed July 9, 2004, which set a one month extendable period for reply. 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 August 10, 2004. A Notice of Abandonment was mailed on January 26, 2005.

The petition satisfies the requirements for a grantable petition in that the reply; the petition fee of $750; and the required statement of unintentional delay have been submitted. Accordingly, the reply to the Notice of Non-Compliant Office action of July 9, 2004 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the

entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the 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 $1,080 extension of time submitted with the petition on January 13, 2006 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

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

This matter is being referred to Technology Center AU 3738 for appropriate action in the normal course of business on the reply received with the petition on January 13, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRIAN M. BERLINER
O'MELVENY & MYERS LLP
400 SOUTH HOPE STREET
LOS ANGELES, CA 90071-2899

COPY MAILED

SEP 27 2006

OFFICE OF PETITIONS

In re Application of
Nicholas deBeer et al
Application No. 10/052,758
Filed: January 18, 2002
Attorney Docket No. 876635-1

: 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 16, 2004.

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

A review of the file record fails to indicate that a power of attorney was ever given to petitioner herein or the other attorneys noted in the request. The oath or declaration submitted on January 18, 2002 only directs that correspondence be mailed to petitioner herein. At most, the record supports the fact that petitioner herein has been employed or otherwise engaged in the proceedings in this patent application. Nevertheless, the request is now moot in view of the acceptance of a power of attorney by applicants dated January 30, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Levine Bagade Han LLP
2483 East Bayshore Road, Suite 100
Palo Alto, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

COPY MAILED
NOV 1 3 2006
OFFICE OF PETITIONS

In re Application of
Boer et al.
Application No.10/052,772
Filed: January 23, 2002
Title of Invention: Method of Making A TFT Array with Photo-Imageable Insulating Layer Over Address Lines

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed August 11, 2006.

This above-identified application became abandoned for failure to timely file an appeal brief and submit the accompanying fee. Applicant filed a Notice of Appeal on May 2, 2005 . Pursuant to 37 CFR 41.37(a) applicant was required to file an Appeal brief two months from May 2, 2005. No extensions of time pursuant to 37 CFR 1.136 were obtained. Accordingly, this application became abandoned on July 3, 2005. A Notice of Abandonment was mailed on December 15, 2005.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

A five (5) month extension of time was requested. However, pursuant to 37 CFR §1.136, an extension of time 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) Petitioner's five (5) month statutory period expired on December 2, 2005. Petitioner is ineligible for any extensions of time. A refund of the $2,160.00 will be refunded.

The Request for Continued Examination (RCE), and amendment will be forwarded to Technology Center 2800 for further processing.

Technology Center 2800 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080

COPY MAILED

DEC 17 2008

OFFICE OF PETITIONS

In re Patent No. 7,314,619 :
Adams et al. : DECISION ON REQUEST
Issue Date: January 1, 2008 : FOR RECONSIDERATION OF
Application No. 10/052,798 : PATENT TERM ADJUSTMENT
Filed: November 2, 2001 :
Attorney Docket No. P1101R2D1 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d)" filed January 16, 2008. Patentees request that the Patent Term Adjustment for the above-identified patent be set at 821 days.

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

Patentees are given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

On January 1, 2008, the above-identified application matured into U.S. Patent No. 7,314,619. The instant request for reconsideration was timely filed on January 16, 2008. The patent issued with a revised Patent Term Adjustment of 741 days.

Patentees request that the revised Patent Term Adjustment be corrected from 741 days to 821 days. Patentees assert that an additional period of adjustment of 81 days should be entered pursuant to 37 CFR 1.702(a)(1) for the Office's failure to mail at least one notification under 35 U.S.C. 132 no later than 14

months after the date on which the application was filed under 35 U.S.C. 111(a). Specifically, patentees aver:

> The 'Three Years' delay under § 1.703(b) and § 1.702(b) running from November 2, 2004 to January 1, 2008 (i.e, **1154 days**) and the examination delay under §1.703(a)(1) running from January 2, 2004 and March 24, 2004 (i.e. **81 days**) do not overlap. Accordingly, the total number of days this patent was delayed by PTO inaction is **1235 days**, not the **1155 days** stated by the PTO.
>
> * * *
>
> The difference between the 'Three Years' delay plus the examination delay that does not overlap with the 'Three Years' delay (i.e., **1235 days**) minus the period attributable to Applicant delay (i.e., **414 days**)is **821 days** (§ 1.703(f)).

Petition dated 01/06/08, pp. 2-3.

Patentees state that the instant patent is not subject to a terminal disclaimer.

Initially, the Office notes: "The period of adjustment under § 1.702(b) is the number of days, if any, beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) . . . and ending on the date a patent was issued[.]" 37 CFR 1.703(b). "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." Id.

In this instance, the period of adjustment under 37 CFR 1.703(b) was properly calculated as 1155 days, the number of days beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), November 3, 2004, and ending on the date a patent was issued, January 1, 2008. Thus, the instant patent issued three years and 1155 days after its filing date. However, any days of delay for Office issuance of the patent

more than three years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f).

In this instance, the period of adjustment of 1155 days attributable to the delay in the issuance of the patent overlaps with the period of adjustment of 81 days attributable to grounds specified in 37 CFR 1.702(a)(1). Thus, no additional period of adjustment beyond 1155 days was entered. Accordingly, the period of 1155 days for Office delay is correct.

In view thereof, the patent term adjustment of **741 days** (1155 days of Office delay - 414 days of applicant delay) indicated in the patent is correct.

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

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080

MAILED

MAR 3 0 2010

OFFICE OF PETITIONS

In re Patent No. 7,314,619	:	DECISION ON REQUEST FOR
Adams et al.	:	RECONSIDERATION OF
Issue Date: January 23, 2002	:	PATENT TERM ADJUSTMENT AND
Application No. 10/052,798	:	NOTICE OF INTENT TO ISSUE
Filed: November 2, 2001	:	CERTIFICATE OF CORRECTION
Attorney Docket No. P1101R2D1	:	

This is a decision on the petition filed on February 17, 2009,[1] which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred twenty-two (822) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **five hundred thirty-seven (537) days**.

37 CFR 1.703(b) indicates that the period of adjustment under 37 CFR 1.702(b) ("over three year period") is the number of days, if any, in the period beginning on the day after the date that is three years after the actual filing date of the application and ending on the date a patent was issued. 35 U.S.C. 154(b)(1)(B). However, 37 CFR 1.703(b) also sets forth the limitations on patent term adjustment specified in 35 U.S.C. 154(b)(1)(B)(i) and (ii). Specifically, 37 CFR 1.703(b)(4) provides that the period of adjustment of the term of a patent

[1] This petition was timely filed within two months of the decision on the request for reconsideration of patent term adjustment mailed December 17, 2008.

shall not include the period equal to the sum of the period of pendency consumed by appellate review under 35 U.S.C. 134, 141, 145, whether successful or unsuccessful (35 U.S.C. 154(b)(1)(B)(ii)).

The Office agrees with patentee that the over three year period is 1155 days. However, patentee failed to account for the filing of the notice of appeal on September 16, 2005. The Office reminds patentee that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 285 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, September 16, 2005, and ending on the date of the mailing of the non-final Office action, September 27, 2006. Thus, the B delay is 870 days (1155 - 285). Accordingly, the patent term adjustment is 537 days (81 days of A delay + 870 days of B delay - 414 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e).

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred thirty-seven (537) days.**

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,314,619 B2

DATED : Jan. 23, 2002 **DRAFT**

INVENTOR(S) : Adams 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 741 days

Delete the phrase "by 741 days" and insert – by 537 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN -9 2004

In re Application of	:	
Stephen Gass et al.	:	
Serial No. 10/052,806	:	WITHDRAWAL FROM
Filed: January 16, 2002	:	ISSUE
For: MITER SAW WITH IMPROVED	:	
SAFETY SYSTEM	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for prompt action.

E. Rollins-Cross, Director
Technology Center 3700

Stephen Gass
SD3, LLC
22409 S.W. Newland Road
Wilsonville, OR 97070

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
PO BOX 1450, ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

#16

JUN 17 2003

MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DRIVE
SUITE 500
SAN DIEGO CA 92130-2332

In re Application of	:
Gregory R. Mundy et al	:
Serial No.: 10/052,832	: PETITION TO MAKE SPECIAL
Filed: January 15, 2002	:
Attorney Docket No.: 432722002612	:

This is in response to applicants' petition filed January 15, 2002, (and refiled May 27, 2003) to make the above-identified application special under the provisions of 37 CFR 1.102(d). Failure to act on the petition when first filed is regretted.

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

The application will be forwarded for entry of the RCE papers and amendment and then to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AI
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, DC 202
www.uspto.g

JUN 16 2003

Paper No. 8

In re Application of :
David J. Richmond :
Serial No. 10/052,834 : DECISION ON PETITION
Filed: January 17, 2002 : TO MAKE SPECIAL
For: ROTATABLE HAIR BRUSH :

Applicant's petition, filed August 22, 2002, requests special status for advanced examination out of turn under the Accelerated Examination Program, MPEP 708.02(VIII). The petition is DISMISSED.

A petition under MPEP 708.02(VIII) requires (1) a petition and the fee therefor, (2) the presentation of all claims directed to a single invention or a statement that applicant will, without traverse, elect a single invention for prosecution if required to do so, (3) a statement that a pre-examination search was made, specifying whether the search was made by the inventor, the attorney, if any, a professional searcher, etc., and listing the field of search by class and subclass, (4) a copy of each reference deemed closely relevant to the claimed subject matter, and (5) a detailed discussion of the documents in which it is pointed out with particularity how the claimed subject matter distinguishes over the references. Applicant's petition lacks items (2) and (5) above.

Applicant may renew the petition by supplying the required items listed above.

PETITION DISMISSED.

E. Rollins-Cross, Director
Technology Center 3700

Ellsworth R. Roston, Esq.
Fulwider Patton Lee and Utecht, LLP
6060 Center Drive, 10th Floor
Los Angeles, CA 90045

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

J. E. McTaggart
Suite 105
1860 Eastman Avenue
Ventura, CA 93003

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APR 23 2004

OFFICE OF PETITIONS

In re Application of :
Walcott :
Application No. 10/052,865 : ON PETITION
Filed: January 17, 2002 :
Attorney Docket No. 1391 :

This is a decision on the petition under 37 CFR 1.137(a), filed April 12, 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. Extensions of time under 37 CFR 1.136(a) are permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Facts:

The application was improperly filed without an abstract.

On February 14, 2002, a Notice to File Corrected Application Papers was sent to petitioner.

Corrected papers were not submitted and the application became abandoned on April 15, 2002.

A Notice of Abandonment was mailed on January 21, 2004.

Analysis:

A grantable petition under 37 CFR 1.137(a) must be accompanied by:
(1) the required reply,
(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 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 Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard

35 USC 133 states, "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." (emphasis added)

"In the specialized field of patent law, ... the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. His interpretation of those provisions is entitled to considerable deference."[1]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[2] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[3]

Petitioner cites docketing errors as the cause of the abandonment of the application. The instant petition is not the first filed by the attorney seeking to revive an application for clerical/docketing errors. Application No. 09/502,401 went abandoned when the attorney failed to timely pay the issue fee and submit drawings. Petitioner filed a petition under 37 CFR 1.137(a) alleging the existence of a reliable system to ensure applications would not become abandoned. The petition was eventually granted. A similar petition under 37 CFR 1.378(b) was filed and eventually granted for patent number 5,423,098.

A **partial** review of the attorney's cases indicates the following applications have at one time or another become abandoned and the following patents have become expired:

10/388,807
10/313,843 (a petition under 37 CFR 1.137(b) was filed and granted)
09/967,529
09/766,172
09/709,881
09/580,061
09/549,076
09/406,471
09/358,799
09/352,276
09/215,808

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[1] Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA)1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir. 1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg, 849 F.2d 1422, 1425, 7 U.S.P.Q.2d (BNA) 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute."))

[2] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[3] See In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912).

09/052,535 (abandoned more than once)
09/019,529
08/932,654
08/898,507
08/897,257
08/888,584
08/821,820
6,050,625 (not clear if this has expired)
5,818,672
6,084,165
5,724,434
5,737,123
5,596,371
5,533,132
5,499,154
5,664,023
5,561,583
5,486,914

Petitioner should list which of the applications or patents above were intentionally allowed to become abandoned or to expire. For the remainder, petitioner should compare and contrast the abandonment or expiration with the facts for the instant application.

Application of the standard to the current facts and circumstances

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($665 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

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

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

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

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

J. E. McTaggart
Suite 105
1860 Eastman Avenue
Ventura, CA 93003

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JUN 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Walcott :
Application No. 10/052,865 : Letter
Filed: January 17, 2002 :
Attorney Docket No. 1391 :

This is a decision on the renewed petition under 37 C.F.R. § 1.137(a) and Addendum, filed May 10 and May 11, 2004, to revive the above-identified application.

The petition is **granted.**

The application was improperly filed without an abstract.

On February 14, 2002, a Notice to File Corrected Application Papers was sent to petitioner.

Corrected papers were not submitted and the application became abandoned on April 15, 2002.

A Notice of Abandonment was mailed on January 21, 2004.

The instant petition seeks revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(a). Therefore, the petition is granted.

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN TX 78716-0727

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MAR 20 2007

OFFICE OF PETITIONS

In re Application of :
SHI et al :
Application No.: 10/052,870 : DECISION ON PETITION
Filing Date: January 18, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: BP1985 :

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 **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed September 19, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on December 19, 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 payment of the issue fee and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the payment of the issue fee and publication fee is accepted as having been unintentionally delayed.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3301.

Daniel Stemmer
Legal Examiner
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

MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of
Jonathan Edwards
Application No. 10/052,900
Filed: January 18, 2002
Attorney Docket No.: **1011/1**

ON PETITION

This is a decision on the petition filed August 21, 2007 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-FinaOffice Action mailed April 6, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned July 7, 2005. Accordingly, a Notice of Abandonment was mailed on January 25, 2006.

A review of the record reveals that a three month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1020.00 extension of time fee submitted with the petition on August 21, 2007, and again on August 24, 2007, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 50-3776.

This matter is being referred to Technology Center 3625 for appropriate action on the amendment filed August 21, 2007.

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)).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 52

DATE : June-15-2004

TO SPE OF : ART UNIT 2827

SUBJECT : Request for Certificate of Correction on Patent No.: 6674157 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.

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:

KAMAND CUNEO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

2827
Art Unit

CIPE JC24 FEB 02 2004 PATENT & TRADEMARK OFFICE

10/052945 R

Cofc

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
P.O. Box 1450
Alexandria, VA 22313-1450

On 1/28/2004

TOWNSEND and TOWNSEND and CREW LLP

By: _____

PATENT
Attorney Docket No. 018865-008300US
Client Ref. No. 17732.35850

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Dennis Lang

Patent No.: 6,674,157 B2

Filed: November 2, 2001

For: SEMICONDUCTOR PACKAGE COMPRISING VERTICAL POWER TRANSISTOR

Examiner: Lourdes C. Cruz

Art Unit: 2811

REQUEST FOR CERTIFICATE OF CORRECTION

Certificate
FEB 0 9 2004
of Correction

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

Sir:

Pursuant to 37 CFR 1.322 Applicant submits a Certificate of Correction correcting printing errors made at the time of printing of the patent. The desired corrections are set forth on form PTO 1050, enclosed.

As the error was on the part of the Patent Office it is not believed a fee is required. However, if a fee is required, the Commissioner is authorized to charge said fee to the undersigned's Deposit Account No. 20-1430. This request is submitted in duplicate.

Respectfully submitted,

Patrick R. Jewik
Reg. No. 40,456

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
(415) 576-0200
Fax (415) 576-0300
PRJ/mbn
60128490 v1

10 FEB 2004

FEB. 02 2004 JC24 PATENT & TRADEMARK OFFICE

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
P.O. Box 1450
Alexandria, VA 22313-1450

On 1/28/2004

TOWNSEND and TOWNSEND and CREW LLP

By: _____

PATENT
Attorney Docket No. 018865-008300US
Client Ref. No. 17732.35850

COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Dennis Lang

Patent No.: 6,674,157 B2

Filed: November 2, 2001

For: SEMICONDUCTOR PACKAGE COMPRISING VERTICAL POWER TRANSISTOR

Examiner: Lourdes C. Cruz

Art Unit: 2811

REQUEST FOR CERTIFICATE OF CORRECTION

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

Sir:

Pursuant to 37 CFR 1.322 Applicant submits a Certificate of Correction correcting printing errors made at the time of printing of the patent. The desired corrections are set forth on form PTO 1050, enclosed.

As the error was on the part of the Patent Office it is not believed a fee is required. However, if a fee is required, the Commissioner is authorized to charge said fee to the undersigned's Deposit Account No. 20-1430. This request is submitted in duplicate.

Respectfully submitted,

Patrick R. Jewik
Reg. No. 40,456

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PRJ/mbn
60128490 v1

PTO/SB/44 (07-03)

10 FEB 2004

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,674,157 B2

DATED : January 6, 2004

INVENTOR(S) : Dennis Lang

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

In claim 1 at Column 7, line 57, delete "Surface" and insert therefor --surface--.
In claim 1 at Column 7, line 61, delete "to" and insert therefor --the--.
In claim 1 at Column 7, line 66, delete "flit" and insert therefor --first--.
In claim 5 at Column 8, line 19, delete "pound" and insert therefor --ground--.
In claim 11 at Column 9, line 8, delete "plant" and insert therefor --plane--.
In claim 16 at Column 10, line 16, delete "coup lea" and insert therefor --couples--.

MAILING ADDRESS OF SENDER: Patrick R. Jewik
Townsend and Townsend and Crew, LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

PATENT NO. 6,674,157 B2_____

No. of additional copies: 0

60128394 v1

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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NE

Mailed: 7/18/05

In re application of
Cupp et al.
Serial No. 10/052,949
Filed: January 17, 2002
For: DENTAL CARE PET FOOD

DECISION ON
PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed February 9, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of January 27, 2004, for failure to timely file a proper reply to the Office letter mailed June 18, 2003, be withdrawn since applicants did timely file a reply on December 18, 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 includes an enclosed copy of the postcard submitted with the Notice of Appeal and accompanying documents which were stamped by the USPTO on December 22, 2004. Also enclosed is a copy of the Transmittal Letter submitted with the Notice of Appeal which includes a certificate of mailing stating that the Notice of Appeal was submitted to the USPTO on December 18, 2004, indicating that the Notice of Appeal and accompanying documents were timely filed. Any holding of abandonment for failure to timely file a proper reply to the Office letter mailed June 18, 2003, therefore, is hereby vacated.

In view of the Notice of Rescinded Abandonment mailed by the USPTO on June 25, 2004, the application was returned to pending status. Accordingly, the Petition is **DISMISSED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Bell, Boyd & Lloyd LLC
P.O. Box 1135
Chicago, IL 60690

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

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OFFICE OF PETITIONS

In re Application of
Dams
Application No. 10/053,001
Filed: January 17, 2002
Attorney Docket No. 56312US009

Decision on Petition

This a decision on the petition under 37 CFR 1.137(b), filed November 16, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed August 13, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 14, 2004.

The instant petition requests revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Petitioner should note, effective October 1, 2004, the issue fee amount was statutorily raised from $1,330 to $1,370. Therefore, $1,370 has been charged to petitioner's deposit account for the issue fee rather than $1,330.

Publishing Division will be notified of the instant decision so that it may take steps to issue a patent based on the instant application.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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P O BOX 33427
ST. PAUL, MN 55133-3427

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MAR 2 3 2005

OFFICE OF PETITIONS

In re Application of :
Rudolf J. Dams :
Application No. 10/053,001 : DECISION GRANTING PETITION
Filed: January 17, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 56312US009 :

This is a decision on the petition, filed March 21, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 16, 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 1621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

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BRIGGS AND MORGAN P.A.
2200 IDS CENTER
80 SOUTH 8TH ST
MINNEAPOLIS MN 55402

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MAY 03 2007

OFFICE OF PETITIONS

In re Application of :
Cory L. Factor :
Application No. 10/053,006 : ON PETITION
Filed: January 23, 2002 :
Attorney Docket No. 32938.1 :

This is a decision on the petition filed April 5, 2007 to withdraw the holding of abandonment which is treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

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

This application became abandoned June 27, 2006 for failure to file a timely response to the Office Action mailed May 25, 2006 which set a one month period for reply. Accordingly, a Notice of Abandonment was mailed March 22, 2007.

Petitioner claims that the Office Action mailed May 25, 2006 was never received at the address provided with the correspondence address change filed July 13, 2005 and that the Office Action was mailed to the previous address of record. . and Petitioner's argument is based on the fact that the oath properly indicated the correct address but instead the USPTO mailed it to the address on the application transmittal. Thus, the Notice was mailed to an incorrect address.

Although petitioners received all correspondence inocrrectly addressed and mailed by the USPTO even after the change of correspondence was filed July 15, 2003 except the office action mailed May 25, 2006, a review of the evidence filed, including a copy of the docket wherein the Office Action would be noted if it had been received, establishes that the customer number provided with the change of correspondence address was not associated with this application. Thus, the Office Action was mailed to the wrong address and as petitioners claim, not received.

In view of the above, no petition fees are due and none have been charged.

Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This matter is being referred to Technology Center 2143 for a re-mailing of the Office Action originally mailed May 25, 2006 and for a restarting of the period for response.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No.

AUG 11 2009

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

In re Application of :
Kammer et al. :
Application No. 10/053,013 : ON APPLICATION FOR
Filed: January 18, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No. 035451-0170 :
(3708.PALM) :
Title: LOCATION BASED :
SECURITY MODIFICATION SYSTEM :
AND METHOD :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705," filed July 2, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is two thousand (2000) days, not seven hundred and fifty-three (753) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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 adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

It is noted in passing that Petitioner has requested that a "decision on this request be **deferred or delayed** (emphasis included) until a final decision has been rendered in *Wyeth v.*

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Dudas..."[2] However, this request has no bearing on the fact that since this application has not matured into a patent, this submission is premature.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Christina Y. Donnell for

Anthony Knight
Supervisor
Office of Petitions

[2] Petition, page 3.

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Paper No.

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

MAILED

MAY 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,591,020	:	DECISION ON REQUEST
Kammer et al.	:	FOR
Issue Date: September 15, 2009	:	RECONSIDERATION OF
Application No. 10/053,013	:	PATENT TERM ADJUSTMENT
Filed: January 18, 2002	:	and
Atty Docket No. 035451-0170	:	NOTICE OF INTENT TO ISSUE
(3708.PALM)	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 9, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, eight hundred and forty-one (1841) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **one thousand, nine hundred and twenty-three (1923)** days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on January 19, 2005 ends on March 26, 2009, the day before the first RCE was filed, which amounts to 1528 (not 1529) days. See U.S.C. 154(b)(1)(B)(i). Therefore, the three-year period amounts to 1528 days.

However, the time consumed by appellate review, beginning on the day the Notice of Appeal was filed (February 27, 2007) and ending on the date on which the non-final Office action was mailed (September 5, 2007), is excluded from the period of B-delay. *See* 35 U.S.C. § 154(b)(1)(B)(ii). This period is 191 days.

Further, 91 days of the "A" delay overlaps with the "B" delay.

As such, the "B" delay is (1528 - 191 excluded days - 91 days of overlap) 1246 days. (The 575 day period of adjustment for "B" delay entered at issuance is being removed and the period of adjustment of 1246 days is being entered).

Furthermore, patentee's calculation accords 209 days of Applicant delay associated with the submission of the RCE on March 27, 2009. This RCE was filed less than three months from the mailing of the preceding final rejection on February 10, 2009, and as such, did not result in any Applicant delay[1].

The revised patent term adjustment is 1923 (954 + 1246 - (89 + 62 + 50 + 76[2])) days.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, nine hundred and twenty-three (1923)** days.

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[1] It is noted in passing that Patentee has asserted that the total Applicant delay is 360 days, however patentee's calculation (which omits the 76-day period and includes the 209-day period) adds up to 410 days.

[2] Patentee's calculation fails to consider the 76 days of Applicant delay that is associated with the July 2, 2009 submission of an amendment under 37 CFR 1.312 after the mailing of the notice of allowance. See 37 CFR 1.704(c)(10).

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

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 : 7,591,020 B2

DATED : **September 15, 2009** **DRAFT**

INVENTOR(S) : Kammer 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 1252 days

Delete the phrase "by 1252 days" and insert – by 1923 days--

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COMMISSIONER FOR PATENTS
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MAY 1 7 2002

OFFICE OF PETITIONS

KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH CA 92660

In re Application of
Frumovitz, et al.
Application No. 10/053,014
Filed: October 16, 2001
Attorney Docket No. AFRUM.002A
FOR: VAGINAL SPECULUM AND PROCEDURE

: DECISION DISMISSING
: PETITION AS MOOT

This is a decision on the petition under 37 CFR 1.10(e), filed February 20, 2002 (certificate of mailing January 24, 2002), requesting that the above-identified application be accorded a filing date of October 16, 2001.

The petition is **dismissed as moot**.

The Office received the original application papers on January 23, 2002 and processed them with a filing date of October 16, 2001, the date upon which petitioners deposited the application in Express Mail service. This fact is evidenced by the "Notice to File Missing Parts of Nonprovisional Application," mailed March 6, 2002, which stated that a filing date of October 16, 2001 had been accorded to this application.

Regarding finances, payment was stopped on check no. 47092 for $421.00, which was submitted with the original application papers. Therefore, the Office charged petitioners' deposit account no. 11-1410 the following fees: $50.00 processing fee for the returned check; $370.00 for the basic filing fee; $42.00 for independent claims in excess of three; $45.00 for claims in excess of twenty; and $130.00 for the instant petition. The $130.00 petition fee will be credited to petitioners' deposit account no. 11-1410.

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

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

SAMUEL H DWORETSKY
AT&T CORP
PO BOX 4110
MIDDLETOWN NJ 07748-4110

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JUN 16 2003

OFFICE OF PETITIONS

In re Application of
Alexander Gibson Fraser
Application No. 10/053,023
Filed: January 18, 2002
Attorney Docket No. 2000-0697

ON PETITION

This is a decision on the petition under 37 CFR 1.137(f), filed May 21, 2003, which is being treated as a petition to revive under 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a PCT international application filed on January 15, 2003. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

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

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

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

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

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

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

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth a projected publication date of September 25, 2003 accompanies this decision.

The petition fee of $1,300 has been charged to Deposit Account No. 01-2745, as authorized.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Notice Regarding Rescission of Nonpublication Request
(1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAMES C. SCHELLER, JR.
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1026

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JUN 2 8 2002

OFFICE OF PETITIONS

In re Application of :
Ziv Z. Hellman et al :
Application No. 10/053,045 :
Filed: January 15, 2002 :
Attorney Docket No. 06055.P001X2 :

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
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Paper No. 13

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

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APR 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Ziv Z. Hellman et al :
Application No. 10/053,045 : DECISION GRANTING PETITION
Filed: January 15, 2002 : UNDER 37 CFR 1.137(f)
Attorney Docket No. 06055.P001X2 :

This is a decision on the petition, filed April 2, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

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

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

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

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

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until

the filing of a grantable petition was unintentional.

The instant petition has been found in compliance with 37 CFR 1.137(f). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay in filing the required reply [Notice to Rescind Previous Nonpublication Request Under 35 U.S.C. § 122(b)(2)(B)(ii)] until the filing of a grantable petition was unintentional." Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A corrected Filing Receipt which sets forth the projected publication date of July 24, 2003 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2124 for examination in due course.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

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JUN 15 2007

OFFICE OF PETITIONS

APPLIED MEDICAL RESOURCES CORPORATION
22872 Avenida Empresa
Rancho Santa Margarita CA 92688

In re Application of :
Lee L. Swanstrom :
Application No. 10/053,053 : ON PETITION
Filed: January 16, 2002 :
Attorney Docket No.:3395-US :

This is a decision on the "Petition to Correct Filing Date of Application" filed March 19, 2002, requesting that the above-identified application be accorded a filing date of November 6.2001, rather than the presently accorded filing date of January 16, 2002.

It is noted that the original application papers were received January 22, 2002 and have been assigned application No. 10/051,686. Duplicate application papers were received on January 16, 2002 and assigned application No. 10/053,053. The Office merged the original application papers into the duplicate file because the duplicate application papers were entitled to the earlier filing date of January 16, 2002.

Petitioner indicates that this application was mailed by first class mail to the Office on November 6, 2001. Petitioner requests the application be given a filing date of, or just after, the original mailing date of November 6, 2001.

The evidence and arguments submitted by petitioner has been considered; however, they are not convincing that this application was, in fact, received in the Office on November 6, 2001, or anytime prior to January 16, 2002.

35 U.S.C. 21(a) provides that:

> The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it

> was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.

The Director may, but is not required to, accept the mailing date as the filing date. The Director has determined that only the "Express Mail" procedure can be used for this purpose because the use of "Express Mail" provides very specific identifying information in advance which establishes both the date of mailing and the particular papers being filed.

Because the filing date of an application is much more critical than the filing date of papers accepted under 37 CFR 1.8, the USPTO promulgated a separate rule, 37 CFR 1.10, which sets forth a specific procedure which must be followed in order to establish the filing date as the date of deposit with the United States Postal Service (USPS) instead of the date of receipt in the Office.

The procedure in 37 CFR 1.10 requires the use of the "Express Mail Post Office to Addressee"service of the USPS. Correspondence sent by the "Express Mail Post Office to Addressee" service is considered filed in the Office on the "date-in" entered by the USPS. If the USPS deposit date cannot be determined, the correspondence will be accorded the date of receipt in the Office as the filing date. If the procedure is not followed, applicants bear the risk of any delay in the delivery of the application papers to the Office.

In the instant petition, there is no allegation that the application papers deposited on November 6, 2001, with the USPS as first class mail to the Office, were deposited in compliance with the "Express Mail" procedures set forth in 37 CFR 1.10. Petitioner had the option of depositing the application papers in "Express Mail" service on November 6, 2001, in order to obtain the benefits of 37 CFR 1.10. Had petitioner followed the procedure set forth in 37 CFR 1.10, the application could have been accorded a filing date as of the date of deposit in "Express Mail." Thus, petitioner could have avoided the instant predicament merely by following the procedures established by the Director. Instead, petitioner chose to deposit the application papers in first class mail and, as such, assumed the risk of any delay in the delivery to the Office. Petitioner's failure to take advantage of the established procedures is not a justification for accepting a date based upon the November 6, 2001 mailing of the instant application papers by first class mail as the filing date of the above-identified application.

Therefore, the application is only entitled to the January 16, 2002 receipt date as the filing date of the application.

The best evidence of when particular application papers were actually received by the USPTO is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. In the absence of a postcard receipt indicating the receipt in the USPTO of the application papers on an earlier date, the USPTO must rely on the Official record, which indicates that the instant application papers were not received in the USPTO until January 16, 2002.

In view of the above, the petition is dismissed. No petition fee is required.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 16, 2002.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,698,519	2004-03-02	10/053,054	2002-01-18	2000-LP-000834U1

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

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

Small Entity

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Carey C. Jordan/	Date (YYYY-MM-DD)	2008-05-19
Name	Carey C. Jordan	Registration Number	47646

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. 6698519
Issue Date: March 2,2004
Application No. 10053054
Filed: January 18,2002
Attorney Docket No. 2000-LP-000834U1

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

This is a decision on the electronic petition, filed May 19,2008 ,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 May 19,2008 . 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
Washington, D.C. 20231
www.uspto.gov

Paper No. 6

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

COPY MAILED

OCT 23 2002

OFFICE OF PETITIONS

In re Application of
Raymond J. Gorte et al
Application No. 10/053,085
Filed: November 9, 2001
Attorney Docket No. PENN.N2437 C

ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 19, 2002, to accept an unintentionally delayed claim under 35 U.S.C.§ 119(e) for the benefit of prior filed provisional Application No. 60/289,462, filed May 8, 2001.

The petition is DISMISSED AS MOOT.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

The instant pending nonprovisional application was filed on November 9, 2001, within twelve months of the filing date of prior filed provisional application Application No. 60/289,462, which was filed on May 8, 2001, and for which priority is claimed. The claim for priority filed August 19, 2002, to provisional Application No. 60/289,462, was filed within sixteen months from the filing date of the provisional application. Therefore, no petition is necessary.

A reference to add the above-noted, prior-filed application on page one following the first sentence of the specification has been included in an amendment filed on August 19, 2002. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

Accordingly, if petitioner desires to have the amendment considered a substitute amendment deleting the incorporation by reference statement must be submitted.

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

Any questions concerning this matter may be directed to Karen Creasy at (703) 305-8859 .

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MICHAEL L. GOLDMAN
NIXON PEABODY LLP
1100 CLINTON SQUARE
ROCHESTER, NY 14604

Mail Date: 04/21/2010

Applicant	: Graham John Hamilton Melrose	: DECISION ON REQUEST FOR
Patent Number	: 7629002	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/053,088	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/18/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **538** 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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P.O. Box 1450
Alexandria, VA 22313-1450
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MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC
666 THIRD AVENUE
24TH FLOOR
NEW YORK NY 10017

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Patent No. 7,177,434 :
Issued: February 13, 2007 :
Application No. 10/053,096 : ON PETITION
Filed: January 18, 2002 :
Attorney Docket No: STB-3.2.005/4271 :

This is a decision regarding your request for acceptance of a fee deficiency submission and loss of small entity status filed February 14, 2007 under 37 CFR 1.28.

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

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**. Status as a small entity has also been removed.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO CA 92122

MAILED

JAN 3 1 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application Serial No.:

10/053,110

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request to Withdraw as Attorney is **GRANTED**.

Further communications will be directed to the address listed below until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. This address has been provided by the withdrawing attorney(s).

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

cc: Micron Technology, Inc.
C/o Tom D'Amico
Dickstein, Shapiro, Moran & Oshinsky
2101 L Street NW
Washington DC 20037-1526

UNITED STATES PATENT AND TRADEMARK OFFICE

#16

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

GODWIN GRUBER, LLP
1201 ELM STREET
SUITE 1700
DALLAS, TX 75270-2084

MAILED

FEB 17 2004

Office of the Director
Group 3600

In re Application of :
Roger L. Schultz, et al. :
Application No. 10/053,116 :
Filed: January 17, 2002 :
For: WELLBORE POWER GENERATING SYSTEM FOR DOWNHOLE OPERATION

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the applicants' petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on December 16, 2003.

The petition is **GRANTED**.

A review of the file record indicates that while applicant's copy of the Office Action were mailed to applicant on March 26, 2003 they were returned to the Office as being undeliverable.

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 March 26, 2003.

Kenneth J. Dorner, Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/cps: 2/9/04

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

HONEYWELL INTERNATIONAL, INC.
LAW DEPT. AB2
P.O. BOX 2245
MORRISTOWN, NJ 07962-9806

COPY MAILED

JUL 0 8 2002

OFFICE OF PETITIONS

In re Application of :
Kenneth W. Henry et al. :
Application No. 10/053,183 : DECISION REFUSING STATUS
Filed: November 9, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 170-00-004 :

This is in response to the petition under 37 CFR 1.47(a), filed on April 19, 2002.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 9, 2001, naming Kenneth W. Henry, James A. Rhoden and Todd Michael Inskeep as inventors but, without an executed oath or declaration.

Accordingly, on February 19, 2002, a "Notice To File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on April 19, 2002, petitioner filed, *inter alia*, the instant petition under 37 CFR 1.47(a), the required petition fee and surcharge for late filing, and a declaration signed by joint inventors Henry and Inskeep.

Petitioners assert that joint inventor Rhoden is now deceased and that a known legal representative cannot be found or reached after diligent effort.

37 CFR 1.42 states, in part:

> In the 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.

A grantable petition under 37 CFR 1.47(a) requires:

> (1) proof that the non-signing inventor, or legal representative thereof, cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
> (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
> (3) the petition fee; and
> (4) a statement of the last known address of the non-signing inventor.

The present petition lacks items (1), (2) and (4).

At the outset, petitioners are advised that 37 CFR 1.47 is not considered an alternative to 37 CFR 1.42 since the language "cannot be found or reached after diligent effort" has no reasonable application to a deceased inventor.[1] 37 CFR 1.42 states that when the inventor is dead, the legal representative may make the necessary oath or declaration. 37 CFR 1.47 will apply when a known legal representative cannot be found or refuses to sign the declaration. In such cases, the last known address of the legal representative must be established before the grant of a patent.[2] When petitioners initially filed this declaration and petition under 37 CFR 1.47(a), perhaps no legal representative for the deceased inventor, Rhoden, had been named. Presumably in the subsequent time period a legal representative has been named.

To establish 37 CFR 1.47 status, petitioner must submit a 37 CFR 1.47 petition on behalf of the legal representative of the deceased inventor.

In regards to item (1), the mere statement that the deceased joint inventor's widow had not been appointed the administrator/executor and that she was unaware of who or how to reach such administrator/executor, is insufficient to show that a diligent effort was made to locate Rhoden's legal representative. Where inability to find or locate a named inventor(s), or legal representative thereof, is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor or legal representative. The statement(s) of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. Petitioners should demonstrate that a thorough inspection of sources including, but not limited to, personnel or payroll records and probate filings. Petitioners should use diligent efforts to determine the current or last known address of the nearest living relative of the deceased inventor. Copies of the results of the search must be referred to in any renewed petition.[3]

Additionally, Rhoden's legal representative or heirs will have to be proffered the complete application papers (specification, including claims, drawings, if any, and the

---

[1] *In re Application Papers Filed September 10, 1954*, 108 USPQ 340 (Comm'r Pat. 1955).

[2] See 37 CFR 1.42.

[3] See MPEP 409.03(d).

declaration) for signature.[4] In the event that the legal representative or heirs refuse to sign the declaration, petitioners may provide proof that a copy of the application was sent or given to the legal representative for review by providing, with a renewed petition, a copy of the cover letter transmitting the application papers to the legal representative or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

In the event that Rhoden's legal representative refuses in writing to sign the declaration, petitioners should provide a copy of the written refusal with any renewed petition. If the refusal is made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

In regards to item (2), the oath or declaration must identify the name, residence, mailing address, and citizenship of the legal representative of the deceased inventor, and state that the legal representative is signing on behalf of the deceased joint inventor. A new oath or declaration in compliance with 37 CFR 1.63 and 1.64, containing the information described in this paragraph, is required.

In reference to item (4), above, the petition must include the last known address of the legal representative of the deceased joint inventor.

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

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

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

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

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

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

---

[4] See also MPEP 409.01(a),(b); 409.03(c).

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

HONEYWELL INTERNATIONAL, INC.
LAW DEPT. AB2
P.O. BOX 2245
MORRISTOWN, NJ 07962-9806

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FEB 0 6 2003

OFFICE OF PETITIONS

In re Application of :
Kenneth W. Henry et al. :
Application No. 10/053,183 : DECISION REFUSING STATUS
Filed: November 9, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 170-00-004 :

This is in response to the request for reconsideration filed on October 8, 2002, with a request for a two month extension of time.[1]

The request for reconsideration is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The oath or declaration in the above identified application has been signed by joint inventors Henry and Inskeep. In the petition under 37 CFR 1.47 (a) filed April 19, 2002, applicants indicated that joint inventor Rhoden is deceased and that at present, no administrator or executor had been appointed to the estate of James A. Rhoden.

The supplemental information provided with the request for reconsideration consisted of an oath or declaration signed by Robert Desmond as the attorney-in-fact and on behalf of James A. Rhoden. According to the applicant, the authority for Mr. Desmond's signature on behalf of Mr. Rhoden is that Mr. Rhoden, on June 5, 1967, "irrevocably appointed Honeywell International Inc. (Previously known as "Airsearch Manufacturing Company of Arizona) as his attorney-in-fact pursuant to an invention and secrecy agreement." Mr. Desmond's title is Chief, Intellectual Property Counsel - Engines, Systems & Services, Honeywell International Inc.

Pursuant to 37 CFR § 1.64 the following applies when a person making oath or declaration is other than the inventor:

(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.**

---

[1]A petition under 37 CFR 1.47(a) was filed April 19, 2002 and dismissed by the USPTO in a decision dated July 8, 2002.

(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.

The agreement between Mr. Rhoden and Honeywell (Airsearch) does not indicate that the agreement between the parties survives the death of the grantor. It should be noted that even an irrevocable power of attorney can be revoked by the death of the grantor. Therein, the petition still lacks items (1), (2) and (4).

We will reiterate the points set out in our July 8, 2002 decision.

Petitioners are advised that 37 CFR 1.47 is not considered an alternative to 37 CFR 1.42 since the language "cannot be found or reached after diligent effort" has no reasonable application to a deceased inventor.[2] 37 CFR 1.42 states that when the inventor is dead, the legal representative may make the necessary oath or declaration. 37 CFR 1.47 will apply when a known legal representative cannot be found or refuses to sign the declaration. In such cases, the last known address of the legal representative must be established before the grant of a patent.[3] When petitioners initially filed this declaration and petition under 37 CFR 1.47(a), perhaps no legal representative for the deceased inventor, Rhoden, had been named. Presumably in the subsequent time period a legal representative has been named.

To establish 37 CFR 1.47 status, petitioner must submit a 37 CFR 1.47 petition on behalf of the legal representative of the deceased inventor.

In regards to item (1), the mere statement that the deceased joint inventor's widow had not been appointed the administrator/executor and that she was unaware of who or how to reach such administrator/executor, is insufficient to show that a diligent effort was made to locate Rhoden's legal representative. Where inability to find or locate a named inventor(s), or legal representative thereof, is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor or legal representative. The statement(s) of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. Petitioners should demonstrate that a thorough inspection of sources including, but not limited to, personnel or payroll records and probate filings. Petitioners should use diligent efforts to determine the current or last known address of the nearest living relative of the deceased inventor. Copies of the results of the search must be referred to in any renewed petition.[4]

---

[2] *In re Application Papers Filed September 10, 1954*, 108 USPQ 340 (Comm'r Pat. 1955).

[3] See 37 CFR 1.42.

[4] See MPEP 409.03(d).

Additionally, Rhoden's legal representative or heirs will have to be proffered the complete application papers (specification, including claims, drawings, if any, and the declaration) for signature.[5] In the event that the legal representative or heirs refuse to sign the declaration, petitioners may provide proof that a copy of the application was sent or given to the legal representative for review by providing, with a renewed petition, a copy of the cover letter transmitting the application papers to the legal representative or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

In the event that Rhoden's legal representative refuses in writing to sign the declaration, petitioners should provide a copy of the written refusal with any renewed petition. If the refusal is made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

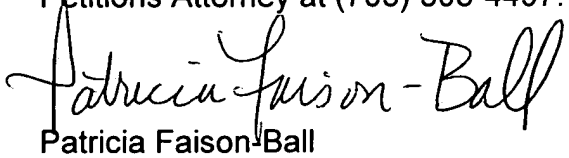
In regards to item (2), the oath or declaration must identify the name, residence, mailing address, and citizenship of the legal representative of the deceased inventor, and state that the legal representative is signing on behalf of the deceased joint inventor. A new oath or declaration in compliance with 37 CFR 1.63 and 1.64, containing the information described in this paragraph, is required.

In reference to item (4), above, the petition must include the last known address of the legal representative of the deceased joint inventor.

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

By mail:	Assistant Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA

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



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[5]See also MPEP 409.01(a),(b); 409.03(c).

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ALEXANDRIA, VA 22313-1450
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Paper No. 14

Honeywell International, Inc.
Law Dept. AB2
P.O. Box 2245
Morristown NJ 07962-9806

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MAY 3 0 2003

OFFICE OF PETITIONS

In re Application of
Kenneth W. Henry et al.
Application No. 10/053,183
Filed: November 9, 2001
Attorney Docket No. 170-00-004

DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

Papers filed on April 9, 2003, in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on February 6, 2003, included a Declaration signed by Bernice K. Rhoden, the Executrix of the Estate of James A. Rhoden, a previously non-signing inventor.

In view of the joinder of the Executrix, further consideration under 37 CFR 1.47(a) is moot; this application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 11, 2006

TO SPE OF : ART UNIT 1745

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/053187 Patent No.: 6,713,206 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: References never submitted or considered

_____

_____

_____

_____

_____ 1745

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

August 24, 2006

FILE COPY

Patent No. : 6,713,206 B2
Ser. No. : 10/053187
Inventor(s) : Markoski, et al.
Issued : March 30, 2004
Title : **ELECTROCHEMICAL CELLS COMPRISING LAMINAR FLOW INDUCED DYNAMIC CONDUCTING INTERFACES, ELECTRONIC DEVICES COMPRISING SUCH CELLS, AND METHODS EMPLOYING SAME**
Docket No. : ILL02-019-US

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 1.322.

Further consideration has been given your request for the issuance of a certificate of correction in view of your letter dated July 10, 2006.

Respecting the alleged error(s) in (item 30) on title page, under Foreign Patent Document (references never submitted or considered), considered to be in accordance with the permissible amendments enumerated in M.P.E.P. 1302.04. Therefore, no correction is in order here under Rules 1.322 or 1.323.

In view of the foregoing, your request in this matter is denied.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 110** or (703) 308-8309

Fish & Richardson P C
225 Franklin Street
Boston MA 02110-2804

CBN/eme

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

11/13/07

Patent No. : 6753170
Inventor(s) : Gaddy et al.
Issued : 6/22/2004
Title : MICROBIAL PROCESS FOR THE PREPARATION OF ACETIC ACID AS WELL AS SOLVENT FOR ITS EXTRACTION FROM THE FERMENTATION BROTH
Atty.doc./File No.

Request for Certificates 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 CFR 1.322.

Inspection of the application for the patent reveals that there needs to be a corrected filing receipt to make the change to delete the inventor. Therefore being no fault on 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 forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

Mary E. Bak
501 Office Center Drive
Suite 210
Fort Washington, PA 19034

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/9/09

TO SPE OF : ART UNIT 1651 Wityshyn Michael (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/053195 Patent No.: 6753170

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

[signature]
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.

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

Comments: _____

[signature]
SPE

1651
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4-13-07

Paper No.: _____

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction on Patent No.: 6958257 B2 (10/053201

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.

Claims & under Patent Documents

Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

Approved

SPE

2823
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 08-02

Paper No. 4

Dale H. Thiel
Flynn, Thiel, Boutell & Tanis, P.C.
2026 Rambling Road
Kalamazoo MI 49008-1699

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AUG 1 3 2002

OFFICE OF PETITIONS

In re Application of :
Carpenter :
Application No. 10/053,236 : DECISION ON PETITION
Filed: 9 November, 2001 :
Attorney Docket No.: Roto-Finish Case 56A :

This is a decision on the petition filed on 16 April, 2002, styled "Petition under 37 C.F.R. §1.17(h)" and considered under 37 C.F.R. §1.53 requesting that pages 4, 10, 20 and 39 of the specification (description and claims) and Figures 3, 5, 6, 7, 8 and 12 described in the specification of the above-identified non provisional application be accorded a filing date of 9 November, 2001.

The petition under 37 C.F.R. §1.53 is **GRANTED**.

The application was originally deposited (via Express Mail Label No EL697493660US) on 9 November, 2001.

The application as filed on 13 May, 2002, consisted, *inter alia*, of Pages 1 - 3, 5 - 9, 11 - 19, 21 - 38, and 40 of specification (description, claims and abstract (on Page 40)) and Figures 1 (Page 1/9), 2 (Page 2/9), 4 (Page 4/9), 9 and 10 (Page 7/9), and 11 (Page 8/9).

The Office mailed on 14 March, 2002, a "Notice to File Missing Parts of Nonprovisional Application (Filing Date Granted)" in which Petitioner was informed that Pages 4, 10, 20 and 39 of the specification (description and claims) and Figures 3 (Page 3/9), 5 and 6 (Page 5/9), 7 and 8 (Page 6/9) and 12 (Page 9/9) as described in the specification appeared to have been omitted from the application. The Notice further indicated that the Applicant must respond within two months of the Notice mail date.

Petitioner filed on 16 April, 2002, a response with the instant petition, a copy of the Office-stamped filing receipt card, copies of documents purporting to be the missing pages of the specification (description and claims) and the missing figures alleged to have been filed on 9 November, 2001, and a check in payment of the $130.00 petition fee.

The copy of the date stamped (9 November, 2001) receipt card (with the Office bar

code/application number) filed with the instant petition indicates that, *inter alia*, "Pages of: Specification 29, Claims 10 * * * Sheets of Drawings: 9" were filed among the pages of specification (including description and claims) and along with the abstract.

Because the return postcard receipt properly itemizes the contents of the application package in accordance with MPEP §503, the Office concludes that all three drawings, including Figure 2, were filed on 9 November, 2001, and that Pages 4, 10, 20 and 39 of the specification (description and claims) and Figures 3 (Page 3/9), 5 and 6 (Page 5/9), 7 and 8 (Page 6/9) and 12 (Page 9/9) as described in the specification were was subsequently misplaced in the Office.

Accordingly, the petition under 37 C.F.R. §1.53 is **granted**.[1]

The Notice mailed on 14 March, 2002, hereby is withdrawn as to Pages 4, 10, 20 and 39 of the specification (description and claims) and Figures 3 (Page 3/9), 5 and 6 (Page 5/9), 7 and 8 (Page 6/9) and 12 (Page 9/9) as described in the specification.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 9 November, 2001, using:

- Pages 1 - 3, 5 - 9, 11 - 19, 21 -38, and 40 of specification (description, claims and abstract (on Page 40)) and Figures 1 (Page 1/9), 2 (Page 2/9), 4 (Page 4/9), 9 and 10 (Page 7/9), and 11 (Page 8/9) filed on 9 November, 2001; and

- Pages 4, 10, 20 and 39 of the specification (description and claims) and Figures 3 (Page 3/9), 5 and 6 (Page 5/9), 7 and 8 (Page 6/9) and 12 (Page 9/9) as described in the specification, supplied on 16 April, 2002, with an indication on the PALM bib data sheet that 40 pages of the specification (description, claims and abstract) and Figures 1 - 12 were present on filing.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Pursuant to Petitioner's authorization, the petition fee ($130.00) is being refunded via Treasury check.

UNITED STATES PATENT AND TRADEMARK OFFICE

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WAGNER, MURABITO & HAO LLP
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THIRD FLOOR
SAN JOSE CA 95113

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OFFICE OF PETITIONS

In re Application of
Zhigang Wang et al.
Application No. 10/053,256
Filed: January 18, 2002
Attorney Docket No.: G0186

DECISION ON PETITION

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

The petition is **DISMISSED**.

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

This application became abandoned on January 27, 2004, for failure to pay the issue fee in response to the Notice of Allowance mailed October 24,2003 and which set a three (3) month period for reply. The filing of the petition and the decision on petition precedes the mailing of the Notice of Abandonment.

Petitioner asserts unavoidable delay in responding to the Notice of Allowance because the Notice of Allowance was not received until August 13, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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 § 1.17(l);
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks items (3) above.

SHOWING OF UNAVOIDABLE DELAY

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

---

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

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

A review of the file reveals that the Notice of Allowance was mailed to the address of record on October 24, 2003 but that the Notice was returned by the US Postal Service on November 18, 2003 as undelivered. However, while petitioner claims to have received the Notice nearly a year after it was mailed, additional information/evidence is needed to substantiate the unexplained, undocumented and somewhat mystical disappearance of this correspondence for nearly a year. In support of the claim though, perhaps a copy of the envelope with the August 2004 postmark from the USPTO would be helpful.

Additionally, petitioner's failure to respond immediately to the USPTO after receipt in August 2004 of correspondence mailed in October 2003 raises the question as to whether the totality of the circumstances reaches a level of "unavoidable delay".[3]

The showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). As petitioner has presented no showing of unavoidable delay, the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[4], 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).

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,

---

[3] See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[4] 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)).

including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

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

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
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OFFICE OF PETITIONS

In re Application of

David Henry Levy

Application No. 10/053,264

Filed: January 23, 2002

Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed November 21, 2007, and in duplicate on that same date.

The petition is **granted**.

This application was held abandoned on September 28, 2007, after no reply was received to the "Notice of Allowance and Issue Fee Due" mailed June 27, 2007. The notice set forth a statutory period of reply of three months from its mailing date. Extensions under 37 CFR 1.136(a) were not available. No response was received within the allowable period and the application became abandoned on September 28, 2007. A Notice of Abandonment was mailed October 23, 2007. The instant petition was filed on November 21, 2007. Petitioner maintains that the notice of June 27, 2007, was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The Issue Fee Transmittal Form (PTOL-85B) filed November 21, 2007, is noted.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

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

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OFFICE OF PETITIONS

In re Application of :
Charles J. Lewis :
Application No. 10/053,276 : ON PETITION
Filed: January 18, 2002 :
Attorney Docket No. 1855-002A :

This is a decision on the petition under 37 CFR 1.137(b), filed February 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 Notice to File Corrected Application Papers 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.

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

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

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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COLUMBUS OH 43235

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OFFICE OF PETITIONS

In re Application of
David P. Vellante et al.
Application No. 10/053,304
Filed: November 7, 2001
Attorney Docket No. ITC 2-002

DECISION ON PETITION
UNDER § 1.183

This is a decision on the petition, filed June 26, 2006 (certificate of mail dated June 22, 2006) under 37 CFR § 1.183 for acceptance of a supplemental declaration without the signatures of all inventors as required by § 1.67.[1]

The petition is **DISMISSED**.

The supplemental declaration filed June 26, 2006 is signed, in combination, by joint inventors Vallente, Floyer and Swec. The supplemental declaration identifies joint inventor Gershenson by name, address and citizenship; however, the declaration is not signed by inventor Gershenson. All of the joint inventors, including Gershenson, signed the original declaration for patent filed in this application, pursuant to § 1.63(d).

Petitioners assert that joint inventor Gershenson has been presented with the Supplemental Declaration but that he refuses to sign it. However, his last known address, nor any details regarding the presentation or the refusal accompany the petition thus, no showing that waiver of the requirement for inventor Gershenson's signature on the supplemental declaration is warranted.

The supplemental declaration provided is not therefore in compliance with 37 CFR § 1.67.

Since the response to the non-Final Office Action in the form of a supplemental declaration is not in compliance with 37 CFR § 1.67 and since the maximum period obtainable for extensions of time to respond to the non-Final Office Action mailed December 22, 2005 has expired, the application has become abandoned by operation of law.

[1]The supplemental declaration was a requirement set out in a non-Final Office Action mailed December 22, 2005 and was submitted with a request for a three month extension of time.

Revival of the application may be petitioned for under 37 CFR 1.137(a)[2] or 37 CFR 1.137(b),[3] 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).

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

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

By mail: Mail Stop Petition
Commissioner for Patents

---

[2]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

[3]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)).

P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

RAE-VENTER LAW GROUP, P.C.
P.O. BOX 1898
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OFFICE OF PETITIONS

In re Application of :
Alex Battaglia :
Application No. 10/053,313 : DECISION GRANTING PETITION
Filed: January 18, 2002 : UNDER 37 CFR 1.137(f)
Attorney Docket No. ALBA.001.01US :

This is a decision on the petition, filed February 6, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

The instant nonprovisional application is the subject of an application filed in a foreign country on May 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 Corrected Filing Receipt which sets forth the projected publication date of May 29, 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 1617 for examination in due course.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUINE INTELLECTUAL PROPERTY
LAW GROUP, P.C.
PO BOX458
ALAMEDA CA 94501

MAILED

MAR 29 2010

OFFICE OF PETITIONS

In re Patent No. 7,056,665 :
Issue Date: June 6, 2006 :
Application No. 10/053,516 : NOTICE
Filed: January 16, 2002 :
Attorney Docket No. 70-003600US :

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 **NOT ACCEPTED.**

The fee deficiency cannot be accepted because a proper itemization has not been submitted, as required by 37 CFR 1.28(C) (ii) which states:

(2) Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

The deficiency payment submitted January 12, 2010, is acknowledged, however, does not include a proper itemization of the three and one half year maintenance fee, as indicated above.

This itemization must be provided within one (1) month of the mail date of this decision to avoid the return of the deficiency payment. See 37 CFR 1.28 (c)(3). No extension of this 1-month time limit will be granted under 37 CFR 1.136(a).

Inquiries related to this communication should be directed to Diane C. Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 10

ROSS D. SNYDER & ASSOCIATES, INC.
115 WILD BASIN RD.
SUITE 107
AUSTIN TX 78746

COPY MAILED

NOV 19 2003

OFFICE OF PETITIONS

In re Application of	:	
Ware et al.	:	
Application No. 10/053,340	:	ON PETITION
Filed: 22 October, 2001	:	
Attorney's Docket No. 1726.7220701	:	

This is a decision on the petition filed on 2 August, 2002, which is treated as a petition requesting that the Notice mailed on 14 June, 2002, be withdrawn. The Office apologizes for the delay in responding to the present petition.

The petition is granted.

The application was filed on 22 October, 2001.

Accordingly, on 14 June, 2002, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of 22 October, 2001, but that Pages 26, 34, 38, 42, 83, 91, 105, and 108 of the specification (description and claims) appeared to have been omitted.

In response, on 2 August, 2002, the present petition and a copy of, *inter alia*, the specification was filed. Petitioners argue that Pages 26, 34, 38, 42, 83, 91, 105, and 108 were filed with the other application papers on 22 October, 2001, but were 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 10/22/01, the above-identified application number, and identifies the application by first named inventor's name, invention title and attorney docket number, and acknowledges receipt of, *inter alia*, "129 pages of specification." Petitioners request that the application,

including Pages 26, 34, 38, 42, 83, 91, 105, and 108 of the specification, be accorded a filing date of 22 October, 2001.

A review of the record reveals that Pages 26, 34, 38, 42, 83, 91, 105, and 108 of the specification are not located among the pages of specification, including claims, and abstract received on 22 October, 2001. However, the evidence is convincing that the application papers deposited on 22 October, 2001, included 129 pages of specification, and Pages 26, 34, 38, 42, 83, 91, 105, and 108 thereof were subsequently misplaced in the Office. Therefore, the application, including Pages 26, 34, 38, 42, 83, 91, 105, and 108 of the specification, is entitled to a filing date of 22 October, 2001.

The "Notice" mailed on 14 June, 2002, is withdrawn.

In view of the above, the petition is granted. No petition fee is due and none has been paid.

The application will be processed with the copy of Pages 26, 34, 38, 42, 83, 91, 105, and 108 of the specification supplied on 2 August, 2002, as a part of the original disclosure. The copies of the other application papers supplied on 2 August, 2002, will not be used for processing or examination, but will be retained in the application file.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 22 October, 2001, using the application papers filed on that date, and the copy of Pages 26, 34, 38, 42, 83, 91, 105, and 108 of the specification supplied with the present petition.

Telephone inquires should be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

Ross D. Snyder and Associates, Inc.
115 Wild Basin Road
Suite 107
Austin, TX 78746

COPY MAILED

NOV 1 3 2003

OFFICE OF PETITIONS

In re Application of :
Frederick A. Ware, et al. :
Application No. 10/053,340 : DECISION GRANTING PETITION
Filed: October 22, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 1726.7220701 :

This is a decision on the petition, filed August 2, 2002, 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 April 23, 2002 and April 24, 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)(iii) will be rescinded in due course.

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

This application will be forwarded to the Office of Initial Patent Examination for further processing and for mailing of a corrected Filing Receipt which sets forth the projected publication date. In the meantime, the file will be held in the Office of Petitions for appropriate action on the "Petition and Response to Notice to File Corrected Application Papers," filed August 2, 2002.

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 : 1/9/2007

TO SPE OF : ART UNIT 2881

SUBJECT : Request for Certificate of Correction for Appl. No.: patent No.: 6,781,118 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**.

Certificates of Correction Branch

703-308-9390 ext. 109

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: _____

DREW A. DUNN
SUPERVISORY PATENT EXAMINER

SPE

2881
Art Unit

PAGE 1/1 * RCVD AT 12/20/2006 3:17:05 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/26 * DNIS:2732478 * CSID:703 308 9759 * DURATION (mm-ss):01-12

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

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

MAIL

JUN 2 5 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Dan E. Rosenthal, et al.)
Application No. 10/053,348)
Filed: November 2, 2001) **DECISION ON REQUEST FOR**
For: METHOD FOR ANALYTICAL) **WITHDRAWAL AS ATTORNEY**
JACOBIAN COMPUTATION IN)
MOLECULAR MODELING)

This is a decision on the Request To Withdraw from Representation filed April 23, 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: Gary T. Aka, Esq.
Ritter, Lang & Kaplan, LLP
12930 Saratoga Avenue, Suite D1
Saratoga, CA 95070

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. 5

PATENT COUNSEL, MS/2061
APPLIED MATERIALS, INC.
Legal Affairs Department
P.O. Box 450A
Santa Clara CA 95052

MAILED

NOV 20 2003

OFFICE OF DIRECTOR
GROUP

In re Application of:
SARFATY *et al.*
Serial No.: 10/053,357
Filed: January 02, 2002
Attorney Docket No.: 4734/AMI-00-04

DECISION ON REQUEST
TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed August 13, 2003.

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

The request is **APPROVED**.

The additional attorneys listed on the original declaration remain of record. The correspondence address remains the same.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

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

Cc: Kenneth C. Brooks
P.O. Box 10417
Austin, TX 78766-1417

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

William H. Dippert
Reed Smith LLP
375 Park Avenue
New York, NY 10152

COPY MAILED

JUN 2 4 2002

OFFICE OF PETITIONS

In re Application of	:	
Dov Ingman	:	
Application No. 10/053,393	:	DECISION GRANTING
Filed: November 9, 2001	:	PETITION
Attorney Docket No. 158/02451	:	

This is a decision on the petition filed May 28, 2002, requesting that the above-identified application be accorded a filing date of November 9, 2001, rather than the presently accorded date of November 7, 2001. The petition is properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

Applicant requests the later filing date on the basis that the application was purportedly deposited with the U. S. Postal Service (USPS) as Express Mail on November 9, 2001 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EL432143341US showing an illegible handwritten "date-in" as well as an illegible "USPS" receipt stamp. The same Express Mail receipt number appears on the Certificate of Mailing by "Express Mail" dated November 9, 2001.

The Office has obtained records from the USPTO's USPS Express Mail Information Database corroborating petitioner's allegations that the application papers were, in fact, deposited as "Express Mail" on November 9, 2001 (copy enclosed).

A corrected filing receipt showing the filing date of the instant application accompanies the decision.

This application file is being forwarded Technology Center 3700 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

ATTACHMENTS: Corrected Filing Receipt
Copy of USPTO USPS Express Mail Information Database

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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QUALCOMM, INC
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED

JAN 12 2006

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Subramanya P. Rao, et al.
Application No. 10/053,398
Filed: January 17, 2002
For: **SEGMENTED CDMA SEARCHING**

DECISION ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment, pursuant to 37 C.F.R. § 1.181, filed November 22, 2005. No fee is required.

This application became abandoned for failure to timely reply to a written restriction requirement mailed on January 19, 2004. A Notice of Abandonment was mailed on October 12, 2005.

Petitioner alleges to have timely filed a proper response, by facsimile on August 16, 2004. In support, petitioner has provided as evidence, copies of applicant's election without traverse, amendment requesting the addition of new claims, a petition for extension of time, a copy of a facsimile transmittal form which contains a certificate of facsimile transmittal signed by Ann Andrews and a copy of a facsimile transmittal report which identifies the subject application and indicates that 12 pages were successfully transmitted on August 16, 2004.

A review of the file record does not reveal the original response to the written restriction requirement/amendment.

37 C.F.R. § 1.8 Certificate of mailing or transmission states in part:
(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

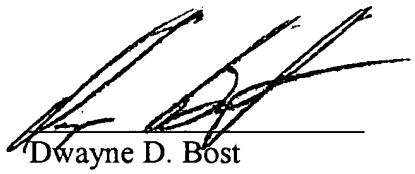
(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated. [emphasis added]

Petitioner has complied with the requirements set forth in 37 C.F.R. §1.8(a) above.

Accordingly, the petition is **GRANTED**.

The holding of abandonment is withdrawn.

The application file is being forwarded to the technical support staff for processing the response to the written restriction requirement which accompanied the subject petition. Thereafter, the application will be forwarded to the examiner for appropriate action in due course.



Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/18/09

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction for Appl. No.: 10053406 Patent No.: 6884603

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 9C62-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: _____

_____

_____

_____

_____

1646

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 24 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

LAW OFFICE OF RONALD M. ANDERSON
600 – 108th Avenue N.E., Suite 507
Bellevue, Washington 98004

In re Application of: Chris Yoochang Chung et al. Application No. 10/053,431 Filed: January 17, 2002 For: PROGRAMMABLE 3D GRAPHICS PIPELINE FOR MULTIMEDIA APPLICATIONS	)))))	**DECISION ON PETITION TO WITHDRAW RESTRICTION REQUIREMENT UNDER 37 CFR §1.144**

This is a decision on the petition filed December 09, 2004 (Certificate of Mailing dated December 06, 2004) under 37 C.F.R. §1.144 to withdraw an outstanding restriction requirement.

The petition is **DENIED**.

On June 07, 2004 the examiner required restriction between Invention I, claims 1, 3-16, drawn to "programmable graphics pipeline", classified in class 345, subclass 506, Invention II, claims 17-22 drawn to "processing graphics data and media data" classified in class 345, subclass 546, Invention III, claims 23-29 drawn to "processing variable length data" classified in class 345, subclass 522, Invention IV, claim 30 drawn to "caching texture data and media data" classified in class 345, subclass 552.

The rationale used by the examiner in support of the restriction requirement included explanation that the 4 groups of claims are related as subcombinations which are distinct from each other if they can be shown to be separately useable. The examiner stated that the second group of claims has separate utility as multiplex communication.

On June 10, 2004 Applicant elected the claims of Invention I, and further elected the claims of the first group of claims, while traversing the requirement. Applicant argued that the four groups are not separately useable due to incorrect classification.

On September 1, 2004, the examiner maintained the restriction requirement making it Final while rejecting elected claims 1, 3-16 in the Final Office action.

On December 06, 2004, petitioner filed the instant petition.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.144 states:

> After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Commissioner to review the requirement ... A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

37 C.F.R. § 1.181 states:

> (a) Petition may be taken to the Commissioner:
>
> (1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;
>
> (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and
>
> (3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644.
>
> (b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.
>
> (c) When a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, or in the ex parte or inter partes prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

MPEP § 803 states:

> Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are

either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - §806.05(i)).

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.

CRITERIA FOR RESTRICTION BETWEEN PATENTABLY DISTINCT INVENTIONS

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and

(B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).... For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02....

MPEP § 821.01 states:

Where the initial requirement is traversed, it should be reconsidered. If, upon reconsideration, the examiner is still of the opinion that restriction is proper, it should be repeated and made final in the next Office action. (See MPEP § 803.01.) In doing so, the examiner should reply to the reasons or arguments advanced by applicant in the traverse. Form paragraph 8.25 should be used to make a restriction requirement final.

DECISION

Petitioner repeats argument that independent claims 1, 17, 23, and 30 of groups I, II, III, and IV of the invention are not properly classified based on the general definitions of the subclasses.

In response to Petitioner's argument, the examiner found each group of invention is distinct, and the search required for one group is not required for other groups. For group I, which is drawn to a programmable graphics pipeline, it is noted that 3D graphics pipeline can be performed through different stages. These stages are processed sequentially. This is also illustrated in Fig. 3 of the application, whereby the stages are implemented *using a vector processing engine 60 (described on page 13 of the specification), which comprises an instruction cache, a vector functional unit, and a register file as claimed in claim 1.* These distinct features are not found in either group II (claims 17-22), group III (claims 23-29), or group IV (claim 30), and requires intensive search in class 345, subclass 506.

For Group II (claims 17-22), which is drawn to "a method for producing one of graphics pixel data and media output data" *by obtaining configuration data and a location of an instruction and performing graphics processing or media processing* when particular claimed criteria are met. This corresponds to class 345, subclass 546, where multiple format types of data are stored and retrieved. These distinct features are not found in either group I (claims 1, 3-16), group III (claims 23-29), or group IV (claim 30).

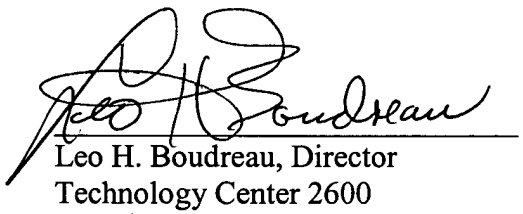
For group III (claims 23-29), which is drawn to processing "variable length data," implemented *by using a vector streaming engine to access and write data to a memory, and a vector processing engine to generate pixel data*. Thus, the vector processing engine needs graphics instructions or commands to performing graphics operation, and this can only be found by intensive search in class 345, subclass 522. These distinct features are not found in either group I (claims 1, 3-16), group II (claims 17-22), or group IV (claim 30).

For group IV, apart from "processing variable length data", group IV (claim 30) also requires "*caching graphics texture data*", which requires intensive search in class 345, subclass 552, where texture memory is used to cache texture data. These distinct features are not found in either group I (claims 1, 3-16), group II (claims 17-22), or group III (claims 23-29).

Therefore, the examiner properly found that claims 1 and 3-30, respectively are drawn to different inventive concepts (subcombinations) which are patentably distinct for the reasons discussed above, and as shown by separate classification and fields of search.

For the above reasons, the petition is **DENIED** and the restriction requirement is deemed to be proper. Petitioner may submit a request for reconsideration within **TWO MONTHS** of the date of this decision.

It is noted that an After Final amendment was filed on December 15, 2004. An Advisory Action mailed June 9, 2005 indicates that the After Final Amendment would not be entered. Since no further response after Final action has been received, the application appears to be abandoned. Accordingly, the application is being forwarded to the examiner for mailing of a Notice of Abandonment.



Leo H. Boudreau, Director
Technology Center 2600
Communications

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AUG 1 9 2005
OFFICE OF PETITIONS

In re Application of :
Chung et al. :
Application No. 10/053,431 : ON PETITION
Filed: January 17, 2002 :
Attorney Docket No. UNIV0123 :

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

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

The application became abandoned on January 4, 2005, for failure to file a proper response to the final Office action mailed on September 3, 2004, which set a three (3) month shortened statutory period for reply. On December 9, 2004, petitioner submitted an amendment in response to the final Office action and a request for an extension of time for response within the first month. However, the examiner found that the amendment did not *prima facie* place the application in condition for allowance. An Advisory Action was mailed on June 9, 2005. The present petition preceded the mailing of a Notice of Abandonment.

In the petition, petitioner asserted that he filed a timely response to the final Office action on December 9, 2004, with a request for an extension of time for response within the first month. Petitioner stated the USPTO mailed the Advisory Action six months after he filed his timely response to the final Office action. Petitioner averred that as a result of the loss of the response to the final Office action by the USPTO, it was impossible for him to file any further response before the expiration of the six months.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant

> application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. 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(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 this paragraph was unavoidable. The Director may require additional information where there is a question whether the delay was unintentional; and
>
> (4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

This petition lacks item (3) above.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[1] 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.[2]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[3] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding

---

[1] 35 U.S.C. § 133.

[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 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).

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

Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[4]

A response to a final Office action may be entered if it presents an amendment that *prima facie* places the application in condition for allowance. However, the admission or refusal to admit any amendment after final, and any related proceedings, will not operate to relieve the application from its condition subject to appeal or save the application from abandonment under 37 CFR 1.135.[5] Further, the entry of an after-final amendment is not a matter of right, and it is incumbent upon an applicant to take steps to ensure against abandonment of an application.

In the present case, the file record reveals that petitioner did not take appropriate action to ensure that a proper response was timely filed so as to prevent the application from becoming abandoned. It is regrettable that the Office did not mail an Advisory Action until after the six month statutory period ran; however, it is clear from 37 CFR 1.116 that abandonment of an application is risked when an amendment after a final Office action is filed.

Abandonment takes place by operation of law for failure to timely submit a proper reply to an Office action, not by the mailing of an Office communication, such an Advisory Action.[6] This rule clearly indicates that the mere filing of an amendment does not save the application from abandonment. Only the filing of a Notice of Appeal, a Request for Continued Examination accompanied by a proper submission, or a continuing application guarantees the pendency of the application, not filing an amendment after final rejection. Thus, the application became abandoned due to petitioner's failure to file a Notice of Appeal, RCE and submission, or continuing application prior to the expiration of the time period for reply to the final Office action and not because the amendment was misplaced by the Office or a delay in the mailing the Advisory Action or any other error on the part of the U.S. Patent and Trademark Office.

CONCLUSION

Petitioner has not provided a sufficient 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.

Accordingly, the petition must be **dismissed**.

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

---

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

[5] See 37 CFR 1.116.

[6] MPEP 711.03(c). See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 299-30 (CCPA 1964); Krahn v. Comm'r, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1984).

With the present petition, petitioner submitted a request for an extension of time for response within the third month and paid a fee of $455.00. 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. The $455.00 extension of time fee is unnecessary because it was submitted with the petition on June 24, 2005, subsequent to the maximum period obtainable for reply. Accordingly, this fee will be credited to petitioner's deposit account.

ALTERNATIVE VENUE

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioner is not precluded from seeking relief by filing a petition under 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 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; and (4) any terminal disclaimer (and fee as set forth in 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 Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Chung et al. :
Application No. 10/053,431 : DECISION ON PETITION
Filed: January 17, 2002 :
Attorney Docket No. UNIV0123 :

This is a decision on the petition under 37 CFR 1.137(b), filed on October 6, 2005, to revive the above-identified application.

The application became abandoned on January 4, 2005, for failure to file a proper response to the final Office action mailed on September 3, 2004, which set a three (3) month shortened statutory period for reply. On December 9, 2004, petitioner submitted an amendment in response to the final Office action and a request for an extension of time for response within the first month. However, the examiner found that the amendment did not *prima facie* place the application in condition for allowance. An Advisory Action was mailed on June 9, 2005.

On June 24, 2005, petitioner filed a petition under 37 CFR 1.137(a), an RCE, and an amendment; however, the petition was dismissed by the decision of August 19, 2005. Although the application was abandoned, on September 22, 2005, the examiner mailed a final Office action, which set a three (3) month shortened statutory period for reply. On October 6, 2005, petitioner filed the present petition under 37 CFR 1.137(b) and a "Status Inquiry Due To A Prosecution History Inconsistency And Request For Withdraw Of Office Action."

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 an amendment, as well as made the proper statement of unintentional delay.

Accordingly, the petition under 37 CFR 1.137(b) is **granted.**

This matter is being referred to Technology Center Art Unit 2676 to remail and restart the period for response to the final Office action of September 22, 2005, because the application was abandoned at the time of the mailing of the Office action.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Lace :
Application No. 10/053,440 : DECISION ON PETITION
Filed: 17 January, 2004 :
Attorney Docket No.: 0155.00030 :

This is a decision on the petition (styled originally as a "Request for Corrected Filing Receipt") filed originally on 27 August, 2002, with subsequent filings on 13 November, 2002, and 12 March, 2004 (and a Status Request on 23 June, 2004), as to an application filed via US Postal Service (USPS) Express Mail and considered under 37 C.F.R. §1.10, and d seeking for the above-identified application a filing date of 17 January, 2002, instead of the presently accorded filing date of 18 January, 2002.

The Office regrets the delay in addressing this matter.

The petition is **GRANTED**.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was received and given a filing date of 18 January, 2002;
- Petitioner's initial request "to correct" the filing date was submitted on 27 August, 2002 (it appears that Petitioner did not address this matter immediately following the mailing of the Notice to File Missing Parts on 13 February, 2002), and was rejected by the Office in a response mailed on 13 December, 2002;

- Petitioner proceeded with prosecution, and appears not to have addressed the 13 December 2002, mailing until 12 March, 2004;

- the materials submitted by Petitioner include a copy of a USPS "Pickup Service Statement identifying a package with the USPS Express Mail Label No. EL830948020US and initialed and dated 17 January, 2002, by the carrier; a copy of the USPS Express Mail Label No. EL830948020US with a date and time in indicated as "1/18/02"and "0230 a.m.," respectively (emphasis supplied);

- a review of the record indicates that the application transmittal form set forth that the papers were transmitted in the package bearing USPS Express Mail Label No. EL830948020US.

Thus, it appears that after the pick up by the USPS carrier on 17 January, 2002, the "Date In" was completed by USPS personnel in the early morning hours of 18 January, 2002.

Accordingly the petition hereby is **granted**.

The petition fee ($130.00) is not waived because the error was not that of the Office, and therefore is charged as authorized by Petitioner to Deposit Account 02-2712.

The instant file is released to OIPE to correct the filing date so as to accord to the instant application a filing date of 17 January, 2002, and to mail to Petitioner a corrected filing receipt reflecting a filing date of 17 January, 2002.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

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OFFICE OF PETITIONS

In re Application of :
Jim Bottos et al :
Application No. 10/053,449 : ON PETITION
Filed: January 17, 2002 :
Attorney Docket No. 108430.023A :

This is a decision on the petition under 37 CFR 1.137(b), filed February 21, 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 Nonprovisional Application (Notice) mailed February 13, 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 14, 2002.

Pursuant to petitioner's authorization, Deposit Account No. 50-1275 was charged a total of $715.00 -- $650.00 for the petition to revive an unintentionally abandoned application and $65.00 for the surcharge.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 6

MOTOROLA, INC.
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JAN 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Andrew Edward White et al	:	
Application No. 10/053,466	:	ON PETITION
Filed: November 7, 2001	:	
Attorney Docket No. CR1087AC	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 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 March 4, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This application is being forwarded to Technology Center 2165.

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

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Paper No.

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OFFICE OF PETITIONS

In re Patent No. 7,268,229	:	
Wood et al.	:	DECISION ON REQUEST
Issue Date: September 11, 2007	:	FOR
Application No. 10/053,482	:	RECONSIDERATION OF
Filed: November 2, 2001	:	PATENT TERM ADJUSTMENT
Atty Docket No. 10743/3	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d)," filed November 9, 2007. Patentees assert that the patent term adjustment pursuant to 35 U.S.C. §154(b) should be seven hundred ninety-two (792) days, instead of four hundred fifty-seven (457) days.

The request for reconsideration of the patent term adjustment under § 1.705(d) is **DISMISSED**.

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

On September 11, 2007, the above-identified application matured into U.S. Patent No. 7,268,229, with a revised Patent Term Adjustment of 457 days. The instant request for reconsideration filed November 9, 2007 was timely filed within 2 months of the date the patent issued. See § 1.705(d). Patentees assert that an additional period of adjustment of 335 days should have been

entered for the Office taking in excess of three years to issue the patent, given that an RCE was filed on October 3, 2005.

Patentees' argument has been considered, but not found persuasive. Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

> . Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
>
> (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

It is noted that this patent issued three years and 1043 days after its filing date. However, as acknowledged by patentees, a Request for Continued Examination (RCE) was filed on October 3, 2005. With respect to the filing of an RCE and the period of adjustment for the Office taking in excess of three years to issue the patent, the period of adjustment for Office delay for failure to issue a patent within three years of the actual filing date of the application will not include any time consumed by continued examination of the application under 35 U.S.C. 132(b).

Moreover, in calculating the period of adjustment, all of the time of pendency of the application after the filing of the RCE is considered consumed by continued examination requested by the application. The filing of an RCE in an application eligible for patent term adjustment cuts off the accumulation of any additional period of adjustment for Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.703(b), but does not otherwise affect the calculation of patent term adjustment. As stated in 37 CFR 1.703(b), the period of adjustment under §1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods:

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

In view thereof, the period of adjustment pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.703(b) ended with the filing in this application of an RCE on October 3, 2005. As such, the over 3-year period of adjustment is 335 days (i.e., beginning on November 3, 2004, the day after the date that is three years after the date on which this application was filed under 35 U.S.C. 111(a) and ending on October 3, 2005[1], the date an RCE was filed).

However, the period for over 3 year pendency does not as argued overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. Patentees are incorrect in treating the relevant period as starting on November 2, 2004, the date that is 3 years after the actual filing date of the application.

Any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). In this instance, it was properly concluded that the 621 days accorded pursuant to 1.703(a)(1) for Office delay during the pendency of

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[1] It is noted that the calculation of this period using the date ending with the date of filing of the RCE equals the same as calculating the over 3 year period (November 3, 2004 to September 11, 2007), which is 1043 days and then subtracting the period consumed by the RCE (October 3, 2005 to September 11, 2007) which is 708 days for a calculation of (1043 - 708) 335 days.

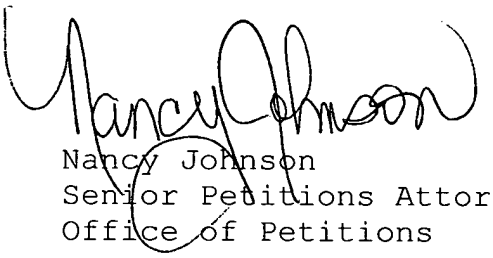
the application overlapped with the 335 days for Office delay pursuant to 37 CFR 1.703(b). Thus, no additional patent term adjustment was entered pursuant to 37 CFR 1.703(b).

Patentees do not dispute the periods of reduction totalling 164 days entered in the application. A review of these periods reveals that they are also correct.

In view thereof, the patent term adjustment of 457 days (621 - 164) indicated in the patent is correct.

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

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No. 4

JAMES A NIEGROWSKI
BANNER & WITCOFF LTD
WASHINGTON DC 2001-4597

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OFFICE OF PETITIONS

In re Application of :
Cartier et al. : DECISION ON PETITION
Application No. 10/053,495 :
Filed: November 2, 2001 :
Attorney Docket No. 005127.00090 :

This is a decision on the petition under 37 CFR 1.53(e), filed May 20, 2002, to accord the above-identified application a filing date of November 2, 2001, with an indication that page 15 of the specification and one sheet of drawings containing Figures 7a through 7d were present on filing.

The petition is dismissed. This is not a final agency action. Any request for reconsideration as indicated below must be filed within TWO MONTHS of this mailing. See 37 CFR 1.181(f). Extensions of time are not permitted under 37 CFR 1.136(a) or (b).

The application papers for the above-captioned application were deposited with the USPS by way of the Express Mail procedure of 37 CFR 1.10 on November 2, 2001. However, on March 22, 2002, the Office of Initial Patent Examination(OIPE) sent a Notice of Missing Parts, which is immaterial to the issues addressed herein, which however, also contained a notification of missing items. That is, the Notice indicated that page 15 of the specification and Figures 7a through 7d described in the specification were missing.

In reply, on May 20, 2002, applicant filed the instant petition and fee, and a copy of the instant application papers asserted to have been made from the correspondence deposited with the USPS on November 2, 2001. Petitioner asserts that since counsel's record copy contains the aforementioned missing items, it follows that these same items were enclosed in the Express Mail envelope, and thus in fact were received by the USPTO. As such, petitioner urges the evidence establishes that a filing date of November 2, 2001, is warranted, as well as an indication that the USPTO received the missing page 15 and drawing Figures 7a through 7d on the date in question.

The instant file is the official USPTO record of the papers that have been received. The missing page 15 of the specification and drawing Figures 7a through 7d asserted to have been entrusted to the USPS on November 2, 2001, are not in the file and cannot be located. While counsel's record copy of the instant application papers has been considered, counsel's record copy is not persuasive that the missing items were received at the USPTO on November 2, 2001. Counsel's record copy was clearly made prior to the

insertion of the correspondence in the Express Mail envelope. Therefore, counsel's record copy is not more probative of the issue that the contents of the instant file.

Further, as noted in MPEP 513, the receipt of some of the correspondence (e.g., pages 1 through 14 of the specification, and all the other drawings figures) for this application from the package for Express Mail Label No. EL 68633580US cannot be employed to "bootstrap" a contention that the missing page 15 of the specification and the mising drawing Figures 7a through 7d must have likewise been received at the USPTO.

Rather, a party urging that papers were originally received at the USPTO, and subsequently misplaced has the burden of showing, by a preponderance of the evidence, that the missing papers were in fact received at the USPTO. As explained in MPEP 503, an appropriately itemized postcard receipt, showing a USPTO date stamp, will serve as *prima facie* evidence of receipt of items asserted to have been misplaced after receipt at the USPTO. If petitioner has such an approrpiately itemized postcard receipt, such should be included with any renewed petition.

Therefore, petitioner has not met his burden of establishing that the missing page of specification and sheet of drawings were received at the USPTO on November 2, 2001. Accordingly, the requested relief cannot be granted, as based upon the current record, this application is not entitled to a filing date of November 2, 2001, with page 15 and Figures 7a through 7d that were filed May 20, 2002.

While this application is entitled to a filing date of November 2, 2001, it is not entitled to that filing date with an indication that 15 pages of specification and a sheet of drawing containing Figures 7a through 7d were present on filing.

A proper reply to a Notice of Omitted Items requires: (1) a showing that the omitted items were in fact received at the USPTO, which for the reasons given above, has not been shown, or (2) a prompt submission of the missing drawing figures, along with a supplemental declaration executing the amended application and specifically referencing the later filed drawing Figures and page of specification filed May 20, 2002, with a resulting acceptance by applicant of the USPTO date of receipt of the drawings and additional page of specification as the filing date, or (3) if applicant is willing to accept the application as filed on November 2, 2001, which lacked Figures 7a through 7d, then applicant must supply an amendment which cancels all reference(s) to the omitted drawings, both in the brief and detailed descriptions of the drawings, as well as any reference to the numerals shown only in the missing drawings.

Accordingly: should applicant desire to retain the filing date of November 2, 2001, then applicant need only submit a renewed petition to that effect, and also file as a separate paper with the petition an amendment which cancels all references in the specification to the omitted drawing Figures 7a through 7d, the drawing figures, and their numerals

mentioned in the specification. It should be noted that such action would not preclude applicant from later seeking to reintroduce some or all of the drawings, subject, however, to the examiner's possible determination that would constitute the addition of new matter. But see 35 USC 132.

Alternately, if applicant willing to accept a fling date of May 20, 2002, the date that the record shows that the missing drawing Figures 7a through 7d and page 15 of the specification were first received at the USPTO, then he must also indicate such, and file with the renewed petition an oath or declaration in compliance with 37 CFR 1.63 and 1.64 executing by specifically mentioning both the specification as amended by the addition of page 15, and drawing Figures 7a through 7d filed May 20, 2002. See 37 CFR 1.63(b)(1).

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

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

OR

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

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

By hand: Crystal Plaza 4, Third Floor, 3C23
2201 South Clark Place
Arlington, VA

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

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

DAC

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Paper No. 4

JAMES A NIEGROWSKI
BANNER & WITCOFF LTD
WASHINGTON DC 2001-4597

COPY OF PAPERS
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AUG 0 6 2002

OFFICE OF PETITIONS

In re Application of
Cartier et al.
Application No. 10/053,495
Filed: November 2, 2001
Attorney Docket No. 005127.00090

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed May 20, 2002, to accord the above-identified application a filing date of November 2, 2001, with an indication that page 15 of the specification and one sheet of drawings containing Figures 7a through 7d were present on filing.

The petition is dismissed. This is not a final agency action. Any request for reconsideration as indicated below must be filed within TWO MONTHS of this mailing. See 37 CFR 1.181(f). Extensions of time are not permitted under 37 CFR 1.136(a) or (b).

The application papers for the above-captioned application were deposited with the USPS by way of the Express Mail procedure of 37 CFR 1.10 on November 2, 2001. However, on March 22, 2002, the Office of Initial Patent Examination(OIPE) sent a Notice of Missing Parts, which is immaterial to the issues addressed herein, which however, also contained a notification of missing items. That is, the Notice indicated that page 15 of the specification and Figures 7a through 7d described in the specification were missing.

In reply, on May 20, 2002, applicant filed the instant petition and fee, and a copy of the instant application papers asserted to have been made from the correspondence deposited with the USPS on November 2, 2001. Petitioner asserts that since counsel's record copy contains the aforementioned missing items, it follows that these same items were enclosed in the Express Mail envelope, and thus in fact were received by the USPTO. As such, petitioner urges the evidence establishes that a filing date of November 2, 2001, is warranted, as well as an indication that the USPTO received the missing page 15 and drawing Figures 7a through 7d on the date in question.

The instant file is the official USPTO record of the papers that have been received. The missing page 15 of the specification and drawing Figures 7a through 7d asserted to have been entrusted to the USPS on November 2, 2001, are not in the file and cannot be located. While counsel's record copy of the instant application papers has been considered, counsel's record copy is not persuasive that the missing items were received at the USPTO on November 2, 2001. Counsel's record copy was clearly made prior to the

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insertion of the correspondence in the Express Mail envelope. Therefore, counsel's record copy is not more probative of the issue that the contents of the instant file.

Further, as noted in MPEP 513, the receipt of some of the correspondence (e.g., pages 1 through 14 of the specification, and all the other drawings figures) for this application from the package for Express Mail Label No. EL 68633580US cannot be employed to "bootstrap" a contention that the missing page 15 of the specification and the mising drawing Figures 7a through 7d must have likewise been received at the USPTO.

Rather, a party urging that papers were originally received at the USPTO, and subsequently misplaced has the burden of showing, by a preponderance of the evidence, that the missing papers were in fact received at the USPTO. As explained in MPEP 503, an appropriately itemized postcard receipt, showing a USPTO date stamp, will serve as *prima facie* evidence of receipt of items asserted to have been misplaced after receipt at the USPTO. If petitioner has such an approrpiately itemized postcard receipt, such should be included with any renewed petition.

Therefore, petitioner has not met his burden of establishing that the missing page of specification and sheet of drawings were received at the USPTO on November 2, 2001. Accordingly, the requested relief cannot be granted, as based upon the current record, this application is not entitled to a filing date of November 2, 2001, with page 15 and Figures 7a through 7d that were filed May 20, 2002.

While this application is entitled to a filing date of November 2, 2001, it is not entitled to that filing date with an indication that 15 pages of specification and a sheet of drawing containing Figures 7a through 7d were present on filing.

A proper reply to a Notice of Omitted Items requires: (1) a showing that the omitted items were in fact received at the USPTO, which for the reasons given above, has not been shown, or (2) a prompt submission of the missing drawing figures, along with a supplemental declaration executing the amended application and specifically referencing the later filed drawing Figures and page of specification filed May 20, 2002, with a resulting acceptance by applicant of the USPTO date of receipt of the drawings and additional page of specification as the filing date, or (3) if applicant is willing to accept the application as filed on November 2, 2001, which lacked Figures 7a through 7d, then applicant must supply an amendment which cancels all reference(s) to the omitted drawings, both in the brief and detailed descriptions of the drawings, as well as any reference to the numerals shown only in the missing drawings.

Accordingly: should applicant desire to retain the filing date of November 2, 2001, then applicant need only submit a renewed petition to that effect, and also file as a separate paper with the petition an amendment which cancels all references in the specification to the omitted drawing Figures 7a through 7d, the drawing figures, and their numerals

mentioned in the specification. It should be noted that such action would not preclude applicant from later seeking to reintroduce some or all of the drawings, subject, however, to the examiner's possible determination that would constitute the addition of new matter. But see 35 USC 132.

Alternately, if applicant willing to accept a fling date of May 20, 2002, the date that the record shows that the missing drawing Figures 7a through 7d and page 15 of the specification were first received at the USPTO, then he must also indicate such, and file with the renewed petition an oath or declaration in compliance with 37 CFR 1.63 and 1.64 executing by specifically mentioning both the specification as amended by the addition of page 15, and drawing Figures 7a through 7d filed May 20, 2002. See 37 CFR 1.63(b)(1).

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

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

OR

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

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

By hand: Crystal Plaza 4, Third Floor, 3C23
2201 South Clark Place
Arlington, VA

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

/Brian Hearn/

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

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WASHINGTON, D.C. 20231

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CP4-3C23

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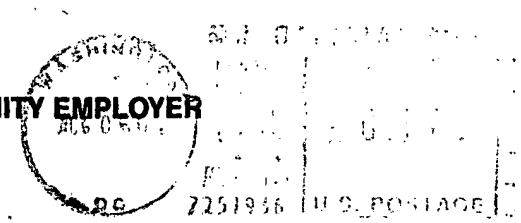

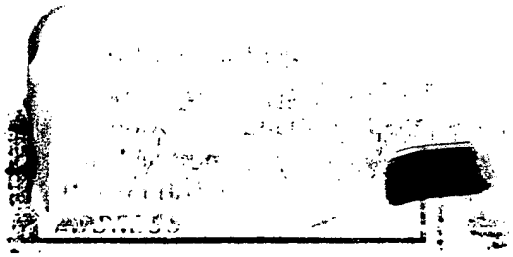

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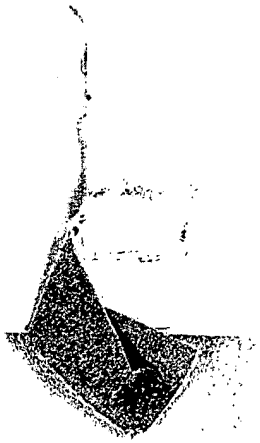

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SUITE 1100
WASHINGTON DC 20001

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OCT 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Cartier et al. :
Application No.: 10/053,495 : DECISION GRANTING PETITION
Filing Date: November 2, 2001 :
Attorney Docket No.:005127.00090. :

This is a decision on the petition filed February 3, 2003, requesting that the applicaiton be accepted as filed on November 2, 2001, that is, lacking page 15 of the specification and Figures 7a-7d.

The petition is **granted**. The delay in treating the petition is regretted.

Applicants renew their petition, and assert they wish to retain the filing date of November 2, 2001, by accepting the application as filed on that date which lacks page 15 of the specification and Figures 7a-7d. Applicants include a preliminary housekeeping amendment in accordance with the foregoing. The copies of page 15 and Figures 7a-7d that were filed with the petition on May 20, 2002, will not be further employed in this application.

This application is brought to the attention of the Office of Patent Examination for further processing as a complete application with a filing date of Novmeber 2, 2001, with an indication on the bibliographic record that 14 pages of specification and 5 sheets of drawings were present on filing.

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

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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February 28, 2006

Julie A. Urvater
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 Fifth Avenue, Suite 6300
Seattle, WA 98104-7092

Patent No.: 6830881 B2
Application No.: 10/053510
Inventor(s): **Julie D. Saba, et al.**
Issued: December 14, 2004
Title: **SPHINGOSINE-1PHOSPHATE LYASE POLYPEPTIDES, POLYNUCLEOTIDES AND MODULATING AGENTS AND METHODS OF USE THEREFOR**

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions

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

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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Commissioner for Patents
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QUINE INTELLECTUAL PROPERTY
LAW GROUP, P.C.
PO BOX 458
ALAMEDA CA 94501

In re Patent No. 7,056,665	:	
Issue Date: June 6, 2006	:	
Application No. 10/053,516	:	NOTICE
Filed: January 16, 2002	:	
Attorney Docket No. 70-003600US	:	

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

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

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

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

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

JC141 APR 18 2002 U.S. PATENT & TRADEMARK OFFICE

EXPRESS MAIL CERTIFICATE

Date 4/18/02 Label No. EV 028722621 US

I hereby certify that, on the date indicated above, this paper or fee was deposited with the U.S. Postal Service & that it was addressed for delivery to the Assistant Commissioner for Patents, Washington, DC 20231 by "Express Mail Post Office to Addressee" service.

D Bleik — Name (Print)

Signature

PLEASE CHARGE ANY DEFICIENCY UP TO $300.00 OR CREDIT ANY EXCESS IN THE FEES DUE WITH THIS DOCUMENT TO OUR DEPOSIT ACCOUNT NO. 04-0100

Customer No.: 07278

PATENT TRADEMARK OFFICE

Docket No.: 3754/0K213

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Marie DUTREIX; Jian-Sheng SUN; Elodie BIET; Rosalie MAURISSE; Jean-Paul FEUGEAS

Serial No.: 10/053,526

Confirmation No.: 1617

Filed: January 18, 2002

For: METHODS AND COMPOSITIONS FOR EFFECTING HOMOLOGOUS RECOMBINATION

Box PATENT APPLICATION
Assistant Commissioner for Patents
Washington, DC 20231

Sir:

COMPLETION OF PATENT APPLICATION

The following items are submitted herewith in completion of the above-identified patent application:

1. Declaration and power of attorney

2. Payment in the amount of $ 964, ($ 794 filing; $ 40 recording; $130 late) in the form of:
   [X] check
   [] deposit account no. 04-0100
   [] credit card (see attached form)
   (See attached **Fee Computation Sheet**)

3. [X] Assignment for recording to:

INSTITUT CURIE;
CENTRE NATIONAL DE LA RECHERCHE SCIENTIFIQUE (C.N.R.S.);
MUSEUM NATIONAL D'HISTOIRE NATURELLE; and
INSTITUT NATIONAL DE LA SANTE ET DE LA RECHERCHE MEDICALE (INSERM)

4. A copy of Notice to File Missing Parts of Application.

Priority is claimed for this application, corresponding application/s having been filed as follows:

Country:	Europe
Number:	00401218.3
Date:	May 3, 2000

The priority document [] are enclosed
[] will follow.
[X] was received by the International Bureau of WIPO on June 13, 2001.

5. [X] Nucleotide or Amino Acid Sequence Listing.

[X] Hard Copy [X] CRF

The Patent Office is authorized to charge any deficiency up to $300.00 in the above fees, and to credit any excess, to our Deposit Account No. 4-0100.

Respectfully submitted,

Dated: April 18, 2002

Paul F. Fehlner, Ph.D.
Reg. No. 35,135
Attorney for Applicant(s)

DARBY & DARBY P.C.
Post Office Box 5257
New York, NY 10150-5257
212-527-7700

PATENT FEE COMPUTATION SHEET

	No. of Claims Presented	Extra Claims Previously Paid For	Number of Extra Claims	Rate
Basic Fee				$740.00
Total Claims	23 - 20	- 0 = 3	x $18.00	$54.00
Independent Claims	3 - 3	- 0 = 0	x $84.00	$0.00
Multiple Dependent Claims		- if so, add	$280.00	$0.00

Surcharge for late submission of filing fee and/or declaration ($130.00)	$130.00
SUBTOTAL	$924.00
[] Small Entity REDUCTION (Half of Subtotal)	$0.00
Fee for recordation of assignment ($40.00)	$40.00
Charge for filing non-English language application ($130.00)	$0.00
TOTAL	$964.00

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APR 1 8 2002
PATENT & TRADEMARK OFFICE

04-22-02

 MP.
#3 VS

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/053,526	01/18/2002	Marie Dutreix	3754/OK213

CONFIRMATION NO. 1617

FORMALITIES LETTER

OC000000007661560

DARBY & DARBY P.C.
805 Third Avenue
New York, NY 10022

Date Mailed: 03/18/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

04/24/2002 BABRAHA1 00000013 10053526

01 FC:101	740.00 OP
02 FC:105	130.00 OP
03 FC:103	54.00 OP

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

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

- The statutory basic filing fee is missing.
  Applicant must submit $ **740** *to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).*
- Total additional claim fee(s) for this application is $54.
  - **$54** for **3** total claims over 20.
- 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 $ 924.**

- This application does not contain a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). Applicant must provide such statement. If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000).
- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

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

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

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

PART 3 - OFFICE COPY

T.D 0360 #9

EXPRESS MAIL CERTIFICATE

Date 7/3/02 Label No. EV115766520US

I hereby certify that, on the date indicated above, this paper or fee was deposited with the U.S. Postal Service & that it was addressed for delivery to the Assistant Commissioner for Patents, Washington, DC 20231 by "Express Mail Post Office to Addressee" service.

J. DiLullo J. DiLullo

Name (Print) Signature

PLEASE CHARGE ANY DEFICIENCY UP TO $300.00 OR CREDIT ANY EXCESS IN THE FEES DUE WITH THIS DOCUMENT TO OUR DEPOSIT ACCOUNT NO. 04-0100

OIPE JC182 JUL 0 3 2002 PATENT & TRADEMARK OFFICE

Customer No.: 07278

PATENT TRADEMARK OFFICE

Docket No: 3754/0K213

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Marie DUTREIX et al.

Serial No.: 10/053,526 Art Unit: N/A

Filed: January 18, 2002 Examiner: N/A

For: METHOD AND COMPOSITIONS FOR EFFECTING HOMOLOGOUS RECOMBINATION

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

July 3, 2002

Hon. Commissioner of Patents and Trademarks
Washington, DC 20231

Sir:

In response to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (the "Notice to Comply") mailed on May 20, 2002 in connection with this application, Applicants submit herewith: (1) a Substitute Sequence Listing in paper and computer readable forms; and (2) a return copy of the Notice to Comply. No fee is believed to be due for this submission. However, should the U.S. Patent

and Trademark Office determine that a fee is required or that a refund is due in connection with this application, the Commissioner is hereby authorized to charge the required fee(s) and/or credit the refund(s) due to Deposit Account No. 04-0100.

Pursuant to the requirements of 37 C.F.R. § 1.821(f) and (g), the undersigned hereby states that the content of the paper and computer readable copies of the Substitute Sequence Listing submitted herewith are identical and that the Substitute Sequence Listing submitted herewith does not contain new matter.

Applicants respectfully request that the Examiner delete the Sequence Listing originally submitted for this application and that the Substitute Sequence Listing submitted herewith be entered in its place.

Respectfully submitted,

Marie L. Collazo
Reg. No. 44,085

DARBY & DARBY, P.C.
805 Third Avenue
New York, N.Y. 10022
Phone (212) 527-7700

OIPE JUL 0 3 2002 JC182 PATENT & TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT.	ATTORNEY DOCKET NUMBER
10/053,526	01/18/2002	Marie Dutreix	3754/OK213

DARBY & DARBY P.C.
805 Third Avenue
New York, NY 10022

OIPE JUL 0 3 2002 JC182 PATENT & TRADEMARK OFFICE

CONFIRMATION NO. 1617

FORMALITIES LETTER

OC000000008156943

Date Mailed: 05/20/2002

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

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

- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

For questions regarding compliance to these requirements, please contact:

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

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

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

[redacted]

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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NOV 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Manabu Mukai et al :
Application No. 10/053,544 :
Filed: January 24, 2002 :
Attorney Docket No. 218429US2SRD :

ON PETITION

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 20, 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 2681 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions

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

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ALEXANDRIA, VA 22314

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DEC 0 2 2004

OFFICE OF PETITIONS

In re Application of
Kazuo Suzuki et al
Application No. 10/053,549
Filed: January 24, 2002
Attorney Docket No. 218445US0

NOTICE

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

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

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

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

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

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Birch Stewart Kolasch & Birch
P. O. Box 747
Falls Church, VA 22040-0747

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NOV 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Hakan Barneman, et al. :
Application No. 10/053,578 : ON PETITION
Filed: January 24, 2002 :
Attorney Docket No. 1381-0284P :

This is a decision on the petition under 37 CFR 1.182, filed August 23, 2004, to change the name of one of the inventors.

The petition is **GRANTED**.

The name of the first inventor has been changed from Hakan Pettersson to **Hakan Barneman**. A corrected filing receipt reflecting the new name is attached herewith.

The application file is being referred to Technology Center 3600 to await a reply to the outstanding office action mailed July 2, 2004.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3223.

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Ilya Zborovsky
6 Schoolhouse Way
Dix Hills, NY 11746

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JUL 19 2006

OFFICE OF PETITIONS

In re Application of :
Zhadanov et al. :
Application No. 10/053,614 :
Filed: January 24, 2002 :
Title of Invention: DEVICE FOR :
HOLDING SHOWER ACCESSORIES :

This is a decision in response to the petition under 37 CFR 1.137(b), filed October 5, 2005, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed June 18, 2002. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on September 19, 2002. A Notice of Abandonment was mailed on March 11, 2004.

With the instant petition, Petitioner has filed an Amendment in response to the Office action. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 3632 for processing of the Amendment in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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FEB 16 2005

OFFICE OF PETITIONS

In re Application of :
Jung, et al. : DECISION ON PETITION
Application No. 10/053,620 :
Filed: January 24, 2002 :
Atty. Dkt. No.: 05823.0199.01000 :

This decision is in response to the petition under 37 CFR 1.137(b), filed December 22, 2004.

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

This application became abandoned September 26, 2004 for failure to timely submit a proper reply to the final Office action mailed March 25, 2004. The final Office action set a three (3) month shortened statutory period of time for reply. A three month extension of time under 37 CFR 1.136(a) was timely submitted. Notice of Abandonment was mailed November 2, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely reply to the final Office action mailed March 25, 2004 is accepted as having been unintentionally delayed.

This application file is being forwarded to Technology Center 1600 for processing of the RCE submitted herewith.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Paper No.

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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OCT 31 2006

OFFICE OF PETITIONS

In re Patent No. 7,083,811	:	
Jung et al.	:	DECISION ON
Issue Date: August 1, 2006	:	APPLICATION FOR
Application No. 10/053,620	:	PATENT TERM ADJUSTMENT
Filed: January 24, 2002	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
05823.0199.01000	:	CERTIFICATE OF CORRECTION
	:	

This is in response to the paper styled NOTICE OF SUSPECTED ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT, filed May 9, 2006. Pursuant to their duty of good faith and candor to the Office, patentees disclose that the initial determination of patent term adjustment under 35 U.S.C. 154(b) received with the notice of allowance may be shorter than 127 days.

The request for review of the patent term adjustment is **GRANTED**.

Prior to a decision being rendered in response to this letter, on August 1, 2006, the above-identified application matured into U.S. Patent No. 7,083,811 with a revised patent term adjustment of 42 days.

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 sixteen (16) days.

On February 9, 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 to date is 127 days. On May 9, 2006, with payment of the issue fee, patentees filed this letter.

Patentees' comments have been considered and found persuasive to the extent indicated. As noted, the patent term adjustment does properly take into account a 98-day delay by the Office in mailing a first Office action on the merits and an 84-day delay by applicants in responding. However, the entry of a period of reduction of 180 days, pursuant to §1.704(b), for applicant taking until December 22, 2004 to file a request for continued examination (RCE) in response to the final rejection mailed March 25, 2004 is incorrect. Rather, given the abandonment of the application for failure to timely respond to the final rejection, pursuant to §1.704(c)(3), the period of reduction is 236 days.

37 CFR 1.704(c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (3) Abandonment of the application or late payment of the issue fee, 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 date of abandonment or the date after the date the issue fee was due and ending on the earlier of:
>
> (i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or
> (ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed;

In this instance, the application became abandoned effective June 26, 2004. The RCE filed December 22, 2004 was filed with the petition to revive. By decision mailed February 16, 2005, the petition was granted. Accordingly, the period of reduction is 236 days counting the number of days beginning on the date of abandonment, June 26, 2004, and ending on the earlier date of mailing of the decision granting the petition, February 16, 2005.

As for the period of adjustment for the Office taking in excess of three years to issue the patent, the Office properly did not accord an additional period of adjustment for Office delay in issuing the patent. If an application is entitled to an

adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, no periods consumed by abandonment of the application will be considered. Moreover, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

In this instance, the patent issued 3 years and 554 days after the actual filing date of the application. However, the application was abandoned for 236 days. So only (554 - 236) 218 days can be considered as Office delay in issuing the patent pursuant to §1.702(b). The total of 336 days of Office delay attributable to grounds specified in §§ 1.702(a)(1) and (2) overlaps with the 218 days considered attributable to the delay in the issuance of the patent. Thus, the period of adjustment for Office delay cannot exceed the actual number of days of delay of 336 days. Patentees are not entitled to any additional days of patent term for Office delay in issuing the patent.

One further correction is required. A review of the record confirms that a period of reduction of 85 days was entered for the filing of this paper. 37 CFR § 1.704(e) provides that:

> Submission of an application for patent term adjustment under § 1.705(b) (with or without request under § 1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section.

Accordingly, the period of reduction of 85 days is being removed.

In view thereof, the patent should have issued with a revised patent term adjustment of sixteen **(16)** days.

The $200.00 fee set forth in 37 CFR 1.18(e) has been received. No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by sixteen (16) 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 : 7,083,811 B2

DATED : August 1, 2006

INVENTOR(S) : Jung 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 (42) days

Delete the phrase "by 42" and insert – by 16 days--

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#8

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FEB 10 2006

TECHNOLOGY CENTER 3600

Ilya Zborovsky
6 Schoolhouse Way
Dix Hills, NY 11746

In re Application of : **DECISION ON PETITION**
Sam Zhandanov et al. : **TO WITHDRAW THE**
Application No. 10/053,636 : **HOLDING OF ABANDONMENT**
Filed: January 24, 2002 :
For: DEVICE FOR HOLDING A HAND-HELD SHOWERHEAD AND THE LIKE

This is a decision on the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on February 10, 2004.

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

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☒ Certificate of Mailing/Transmission signed on September 18, 2003, and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

☐ Originally sent response, filed _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

RAR/js: 8/1/05

Randolph A. Reese
Special Programs Examiner
Group 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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SMITH-HILL AND BEDELL, P.C.
16100 NW CORNELL ROAD, SUITE 220
BEAVERTON OR 97006

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JAN 09 2007

OFFICE OF PETITIONS

In re Application of :
William H. Chang, et al. :
Application No. 10/053,651 : DECISION ON PETITION
Filed: January 18, 2002 : TO WITHDRAW
Attorney Docket No. FLEX2406 : 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 10, 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 John Smith-Hill on behalf of all attorneys of record who are associated with customer No. 07812.

All attorneys/agents associated with the Customer Number 07812 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 William H. Chang at the address indicated below.

There is an outstanding Office action mailed August 23, 2006 that requires a reply from 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: MR. WILLIAM H. CHANG
FLEXIWORLD TECHNOLOGIES, INC.
PMB 267
3439 N.F. SANDY BLVD
PORTLAND, OR 97232-1959

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MR. WILLIAM H. CHANG
FLEXIWORLD TECHNOLOGIES, INC.
PMB 267
3439 N.E. SANDY BLVD.
PORTLAND OR 97232-1959

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JUN 11 2007

OFFICE OF PETITIONS

In re Application of
Chang et al
Application No. 10/053,651
Filed: January 18, 2002
Title: Methods for Universal Data Output

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed May 23, 2007.

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

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing 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.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of August 23, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application was held abandoned on November 24, 2006. A Notice of Abandonment was mailed November 18, 2007.

The petition has **not** been reviewed on the merits because the petition provided has not been signed.

Pursuant to 37 CFR 1.33, amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered attorney or agent of record appointed in compliance with § 1.34(b);

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);

(3) An assignee as provided for under § 3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

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). A review of the record shows the petition has not been executed by inventor Liu, nor is there an assignment recorded for Flexiworld Technologies, Inc.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MR. WILLIAM H. CHANG
FLEXIWORLD TECHNOLOGIES, INC.
PMB 267
3439 N.E. SANDY BLVD.
PORTLAND OR 97232-1959

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AUG 31 2007

OFFICE OF PETITIONS

In re Application of :
Chang et al. :
Application No. 10/053,651 : DECISION ON PETITION
Filed: January 18, 2002 :
Title. Methods For Universal Data Output :

This is a decision on the petition, filed July 30, 2007 which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of August 23, 2006, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before November 23, 2007.

Petitioner states that a timely reply was submitted via Electronic Filing System (EFS) on January 23, 2007, which included the following papers: amendment, claims, specification and a two month extension of time. The correspondence includes an electronic acknowledgement receipt dated January 23, 2007.

A review of the record shows the originally submitted papers dated January 23, 2007 have been located in the file.

Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of August 23, 2006 is hereby withdrawn and the application restored to pending status.

This application is being referred to art unit 2625 for appropriate action in the normal course of business.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Smith-Hill and Bedell, P.C.
16100 NW Cornell Road
Suite 220
Beaverton, OR 97006

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OFFICE OF PETITIONS

In re Application of :

William Ho Chang et al. :
Application No. 10/053,653 : DECISION ON PETITION
Filed: January 18, 2002 : TO WITHDRAW
Attorney Docket No. FLEX 2399 : 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 16, 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, **applicant has not performed in accordance with his engagement letter**, 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 for

David Bucci
Petitions Examiner
Office of Petitions

cc: **Mr. William H. Chang**
Flexiworld Technologies, Inc.
115 S.W. Ash Street, Suite 550
Portland, Oregon 97204

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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ROBERTS, MLOTOWSKI & HOBBES
P.O. BOX 10064
McLEAN, VA 22102-8064

Mail Date: 05/07/2010

Applicant	: Masahiro Motoyuki	: DECISION ON REQUEST FOR
Patent Number	: RE41136	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/053,690	: OF WYETH
Filed	: 01/24/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

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SEP 25 2006

OFFICE OF PETITIONS

In re Application of :
Hardwick, et al. :
Application No. 10/053,731 : DECISION ON PETITIONS
Filed: January 18, 2002 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Atty. Dkt. No. MS183174.1/40062.164US01 :

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 15, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

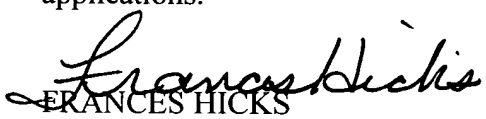
All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2123 for appropriate action on the amendment submitted February 15, 2006, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.



FRANCES HICKS
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

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United States Patent and Trademark Office
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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
10/053,731	01/18/2002	2123	1694	MS183174.1/40062.164US01	10	45	9

CONFIRMATION NO. 4229

22801
LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

CORRECTED FILING RECEIPT

OC000000020269780

Date Mailed: 08/31/2006

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)

Jonathan Christopher Hardwick, Cambridge, UNITED KINGDOM;
Efstathios Papaefstahiou, Cambridge, UNITED KINGDOM;

Assignment For Published Patent Application

Microsoft Corporation

Power of Attorney: The patent practitioners associated with Customer Number **22801**.

Domestic Priority data as claimed by applicant

This application is a CIP of 09/632,522 08/04/2000 PAT 6,925,431
which claims benefit of 60/209,759 06/06/2000

Foreign Applications

If Required, Foreign Filing License Granted: 02/15/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/053,731

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Evaluating hardware models having resource contention

Preliminary Class

703

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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Technology Center 2100

William C. Rowland
BURNS, DOANE, SECKER &
MATHIS, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

In re Application of:
Shintaro SHIMOGORI et al.
Application No. 10/053,737
Filed: January 24, 2002
For: DATA PROCESSING SYSTEM, DATA PROCESSING APPARATUS AND CONTROL METHOD FOR A DATA PROCESSING APPARATUS

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR § 1.181

This is a decision on the petition, filed on 12 July 2005, under 37 CFR §1.181 to withdraw holding of abandonment of the above-identified application.

This application was held abandoned for failure to timely pay the required Issue and Publication Fees within the statutory period of three months from the mailing date of the Notice of Allowance. The Notices of Allowability and of Allowance and Issue Fee Due were mailed on 18 January 2005. A Notice of Abandonment was mailed on 25 May 2005.

In support of the petition, petitioner asserts that the Notice of Allowance and Issue Fee Due mailed 18 January 2005 was not received. Petitioner supplies (1) a statement that a review of the file did not locate any relevant documents; and (2) a copy of the print out from Applicant's Attorney's docket system reflecting the day that the Issue Fee was due.

The provided copy of the docket system shows no entry indicating receipt of the Notice of Allowance and Issue Fee Due mailed on 18 January 2005.

The relevant portion of MPEP § 711.03(c) 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. See Notice entitled

"Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

The undersigned interpreted the statement "a review of the file did not locate any relevant documents" as a statement that applicant's attorney did search of the file jacket and docket system indicated that the Notice of Allowance mailed 18 January 2005 was not received. Thus, Petitioner has met the criteria of set out in MPEP § 711.03(c) for establishing failure to receive the Notice of Allowance and Issue Fee Due mailed 18 January 2005.

For the above, the petition is **GRANTED**. The abandonment is **WITHDRAWN**.

Since the required issue and publication fees were paid on 12 July 2005, the application will be forwarded to the Office of Publication for further processing.

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

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.
10/053,740	**6/6/02**	**HONG GUO**	**3745-9**

Title: **TOPOLOGY AWARE SCHEDULING FOR A MULTIPROCESSOR SYSTEM**

Art Unit	Paper Number

Correspondence Address:
ARTHUR S. GARRETT
FINNEGAN, HENDERSON, FARABOW, GARRETT, DUNNER
1300 I STREET, N.W.
WASHINGTON, D.C. 20005

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 529,177
Grant Date: 09-Jul-02

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved:

for Commissioner of Patents and Trademarks

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such aplication or applications.

This license is granted under 37 CFR 5.15(a)

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminstration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
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WASHINGTON, DC 20231
www.uspto.gov

Arthur S. Garrett
FINNEGAN, HENDERSON, FARRABOW
GARRETT & DUNNER, LLP
1300 I Street, NW
Washington, DC 20005

In re:	Guo et al	:	DECISION ON REQUEST
Serial No.:	10/053,740	:	UNDER 37 CFR 5.25
Filing date:	January 24, 2002		
Docket No:	3745-9		

Title: TOPOLOGY AWARE SCHEDULING FOR A MULTIPROCESSOR SYSTEM

In view of the communication(s) filed April 25, 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	December 20, 2001

Approved:

Ian J. Lobo
Patent Examiner
Group 3600
(703) 306-4161

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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

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OFFICE OF PETITIONS

In re Application of :
Mark Stapp, et al. :
Application No. 10/053,759 : ON PETITION
Filed: January 18, 2002 :
Attorney Docket No. 50325-0623 :

This is a decision on the petition under 37 CFR 1.314 filed August 7, 2006, to defer issuance of the patent.

The petition is GRANTED.

Issuance will be deferred for a period of one month from the date of this decision. At the end of this period, the application will be referred to the Publishing Division to be processed into a patent.

If an additional deferral period is required, another petition and fee should be promptly submitted. The petition must include a showing of extraordinary circumstances; MPEP 1306.01 and be addressed as follows:

By mail:
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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

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SMITH-HILL AND BEDELL, P.C.
16100 NW CORNELL ROAD, SUITE 220
BEAVERTON, OR 97006

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OCT 26 2006

OFFICE OF PETITIONS

In re Application of :
CHANG, et al. :
Application No. 10/053,765 : DECISION ON PETITION
Filed: January 18, 2002 : TO WITHDRAW
Attorney Docket No. FLEX 2400 : 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 16, 2006 and subsequently filed October 16, 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 John Smith-Hill on behalf of all attorneys of record.

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

The correspondence address of record has been changed and all future correspondence will be directed to the first named inventor William H. Chang at the address indicated below until otherwise properly notified by the applicant.

A Review of the file discloses that a non-final Office action was mailed on July 13, 2006, which set forth a three month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) are available. To date, there is no indication that a reply to the Office action of July 13, 2006 has been received.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Buczinski
Petitions Examiner
Office of Petitions

cc: WILLIAM H. CHANG
FLEXIWORLD TECHNOLOGIES, INC.
PMB 267
3439 N.E. SANDY BLVD.
PORTLAND, OR 97232-1959

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Mailed: AUG 2 6 2004

BC
Paper Number:

In re application of
Günter Schubert et al.
Serial No. 10/053,773
Filed: January 22, 2002
For: METHOD FOR SETTING A PROCESS FOR THE MANUFACTURE OF SEALING SEAMS

DECISION ON PETITION

This is a response to the PETITION UNDER 37 C.F.R. §1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT filed May 18, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of May 13, 2004, for failure to timely file a proper reply to the Office letter of October 10, 2003, be withdrawn since the applicants did timely file a response thereto on October 21, 2003. (A copy of the papers filed October 21, 2003 and a copy of the PTO date-stamped return postcard indicating receipt of the papers by 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 USPTO application file reveals that applicants' response was properly filed on October 21, 2003 in view of the fact that applicant have enclosed a copy of the PTO date-stamped postal receipt dated October 21, 2003 indicating that the response was successfully received.

The Petition is **GRANTED**.

The application shall be forwarded the the Group Art Unit's Legal Instrument Examiner for entry of the Revocation of Power of Attorney, New Power of Attorney and change of correspondance address (all filed on April 30, 2003). After entry of these papers, the application will be forwarded to the examiner for processing and consideration of the response filed October 21, 2003.

jmstone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Charles Guttman
Proskauer Rose LLP
1585 Broadway
New York, NY 10036

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Paper No. 6

Michele L. Conover
AT & T Corporation
P.O. Box 4110
Middletown, NJ 07748

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MAY 23 2003

OFFICE OF PETITIONS

In re Application of :
Charles D. CALDWELL et al. :
Application No. 10/053,777 : DECISION GRANTING PETITION
Filed: January 22, 2002 : UNDER 37 CFR 1.137(f)
Attorney Docket No. 2000-0056 :

This is a decision on the petition, filed May 15, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on January 10, 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(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 2654 for examination in due course.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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AIR PRODUCTS AND CHEMICALS, INC.
PATENT DEPARTMENT
7201 HAMILTON BOULEVARD
ALLENTOWN, PA 18195-1501

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FEB 04 2005

OFFICE OF PETITIONS

In re Application of :
Keith Allen Welp, et. al. :
Application No. 10/053,787 : ON PETITION
Filed: January 21, 2002 :
Attorney Docket No. 0611P USA :

This is a decision on the petition under 37 CFR 1.137(b), filed January 14, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue fee, and publication fee in a timely manner in reply to the Notice of Allowance mailed October 7, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned after midnight January 7, 2005.

In response, petitioner submitted with the instant petition an authorization to charge the listed deposit account $1,500 for the petition to revive fee, $1,400 for the issue fee, $300 for the publication fee, and $60 for twenty (20) advance soft copies. As authorized, the above fees have been charged to petitioner's deposit account.

The petition is **GRANTED**.

The application file is being referred to the Office of Publications for further processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

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

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OFFICE OF PETITIONS

AIR PRODUCTS AND CHEMICALS, INC.
PATENT DEPARTMENT
7201 HAMILTON BOULEVARD
ALLENTOWN PA 18195-1501

In re Application of :
Keith Allen Welp et al :
Application No. 10/053,787 : ON PETITION
Filed: January 21, 2002 :
Attorney Docket No. 06111P USA :

This is a decision on the petition, filed February 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 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) 272-3208.

The examiner of Technology Center AU 1621 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 10 2004

Paper No. 12

In re Application of
Mark C. Myrhum *et al*
Application No. 10/053,797
Filed: January 18, 2002
Attorney Docket No. 38213.00012.UTIL

: DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on January 29, 2004 by which petitioners request that the Office letter reset the mailing date of the restriction requirement mailed on October 14, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that they have not received the Office letter in question. Petitioners have supported that allegation with a showing of fact analogous to the showing made with respect to nonreceipt of Office correspondence in connection with a petition to withdraw a holding of abandonment for failure to reply to an Office letter that was not received. The showing is accepted. It also appears from the record that petitioners had filed a timely revocation of power of attorney and new power of attorney that was received prior to the mailing of the Office letter in question, but the papers were not processed prior to the Office letter in question being mailed to the old correspondence address. The power of attorney and correct correspondence address are now of record.

Accordingly, this application is being forwarded to the Head Supervisory Applications Examiner with instructions to remail paper No. 9, together with all attachments thereto. The period for filing a reply to the paper will run from the date that the paper is remailed. In addition, a paper acknowledging receipt and acceptance of paper No. 10, the power of attorney filed on October 9, 2003, will be prepared and mailed. No change to the PALM system is necessary since the power of attorney and correspondence address appear to have been properly entered in the PALM system.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Paul, Hasting, Janofsky & Waller L.L.P.
P.O. Box 919092
San Diego, CA 92191-9092

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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BAKER & MCKENZIE LLP
PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS TX 75201

COPY MAILED
APR 14 2006
OFFICE OF PETITIONS

In re Application of :
Myrhum, et al. :
Application No. 10/053,797 : ON PETITION
Filed: January 18, 2002 :
Attorney Docket No. 11739 :
For: GOLF CLUB WOODS WITH WOOD CLUB HEAD HAVING A SELECTABLE CENTER OF GRAVITY AND A SELECTABLE SHAFT

This is a decision on the petition, filed June 17, 2005 (certificate of mailing date June 14, 2005), 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 under 37 CFR 1.137(b)is **GRANTED**.

Petitioners stat that the above-identified nonprovisional application is the subject of an application filed in a foreign country or under a multinational international treaty that requires publication of applications eighteen months after the filing. This satisfies the rescission requirement. 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 or under a multilateral international agreement that requires publication of applications 18 months after filing.

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 petition is granted.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230.

This application is being returned to Technology Center 3711 for consideration of the amendment filed September 21, 2005.

for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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David B. Ritchie
Thelen Reid & Priest, LLP
P.O. Box 640640
San Jose, CA 95164-0640

MAILED

MAR 2 1 2005

Technology Center 2100

In re Application of:
Jack H. Chang
Application No. 10/053,826
Filed: January 18, 2002
For: SYSTEM AND METHOD FOR MANAGING MULTIMEDIA MESSAGING PLATFORMS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed October 12, 2004.

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

The request is **GRANTED**.

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

for

Vincent N. Trans
Special Program Examiner
Technology Center 2100

cc: Wilfred Lam
Innovations Management Sciences
970 Terra Bella Avenue, Suite 8
Mountain View, CA 94043

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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MAILED

MAR 2 1 2005

Technology Center 2100

David B. Ritchie
Thelen Reid & Priest, LLP
P.O. Box 640640
San Jose, CA 95164-0640

In re Application of:
Jack H. Chang
Application No. 10/053,827
Filed: January 18, 2002
For: SYSTEM AND METHOD FOR MANAGING MULTIMEDIA MESSAGING PLATFORMS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed October 12, 2004.

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

The request is **GRANTED**.

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

for

Vincent N. Trans
Special Program Examiner
Technology Center 2100

cc: Wilfred Lam
Innovations Management Sciences
970 Terra Bella Avenue, Suite 8
Mountain View, CA 94043

2600

COMMISSIONER FOR PATENTS
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LADAS & PARRY
224 SOUTH MICHIGAN AVENUE, SUITE 1200
CHICAGO IL 60604

COPY MAILED
MAR 22 2004
OFFICE OF PETITIONS

In re Application of :
Jang-Keun Oh :
Application No. 10/053,839 : ON PETITION
Filed January 22, 2002 :
Attorney Docket No. AB-1114 US :
:

This is a decision on the petition under 37 CFR 1.10 filed, March 9, 2004.

The petition is **dismissed.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.10."

The instant petition was filed to correct what petitioner believed was an incorrect filing date accorded the above-cited application. Petitioner maintains that the correct filing date for the application should be October 22, 2001, not the currently accorded date of January 22, 2002. In support thereof, petitioner filed a copy of the Track and Confirm sheet from the United States Post Office website showing a package with label EL699358526US as being enroute on October 22, 2001, but not being delivered at the United States Patent and Trademark Office until January 23, 2002. The subject Express Mail number was also found on the transmittal sheet that accompanied the original application papers.

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

> (1) . . . be filed promptly after the person becomes aware that the Office has accorded or will accord a filing date other than the USPS deposit date;

2) [provide] the number on the Express Mail mailing label was placed on a paper(s) or fee(s) that constituted the correspondence prior to the original mailing by Express Mail; and

(3) . . . include a true copy of the Express Mail mailing label showing the date-in and of any other official notation by the USPS relied upon to show the date of deposit.

The instant petition does not satisfy the requirements of item (1) and (3) above.

As to item (1) above, it is noted that more than two years has passed since the filing date of January 22, 2002, was accorded the application, however; no request from petitioner to correct the filing date has was noted prior to the recent filing on March 9, 2004. The applicable rule requires that a petition to correct the filing date be filed promptly after the applicant becomes aware that the Office has accorded, or will accord, a filing date other than the USPS date. With any renewed petition filed, petitioner must detail when petitioner became aware of the alleged incorrect filing date so that it can be determined whether the instant petition was promptly filed thereafter.

As to item (3) above, Section 1.10(c)(3) requires that a copy of the "Express Mail" label showing the "date-in" and of any other official notification by the USPS relied upon to show the date of deposit accompany the petition. The Track and Confirm sheet is noted, however, a copy of the "Express Mail label" was not found among the petition papers. In addition to providing a copy of the "Express Mail" label, it is requested that petitioner explain what petitioner believes that it took three months for the subject Express Mail package to reach the Patent and Trademark Office, especially considering that the standard delivery time for such packages is one business day.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Certification of Facsimile Transmission

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being facsimile transmitted to the Patent & Trademark Office to Fax No. (703) 872-9306 on May 11, 2004 (10 pages).

Debra M. Szumowski
Name

Signature

DOCKET: CU-2833

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

APPLICANT:	Jang-keun OH	)
SERIAL NO:	10/053,839	) Group Art Unit: 1744
FILING DATE:	October 22, 2001	) Examiner:
TITLE:	CYCLONE DUST COLLECTING DEVICE FOR A VACUUM CLEANER	)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Attention: Office of Petitions

RESPONSE TO DECISION & RENEWED PETITION TO ACCORD FILING DATE UNDER 37 CFR 1.10(c)

Dear Sir:

This is in response to the Decision mailed March 22, 2004, together with a renewed petition to accord the filing date of October 22, 2001 to this application.

In support of our renewed petition, we enclose the following additional materials:

1. Copy of a letter from the Skjerven Morrill firm to our Korean client, Nawoo Patent & Law Firm, which reports the filing of the U.S. application on October 22, 2001.
2. Copy of transmittal letter which indicates the Express Mail Label No. EL699358526US and date of submission October 22, 2001.
3. Copy of a letter from the Skjerven Morrill firm to our Korean client, Nawoo Patent & Law Firm, forwarding the official filing receipt indicating a filing date of January 22, 2002. It is noted therein that the error in the filing date was noticed and that the Skjerven Morrill firm stated that they would request a correction of the error.
4. Copy of a notice posted on the U.S. Patent & Trademark Office website concerning applications filed between the dates of September 11, 2001 and December 1, 2001 via the U.S. Postal Service.

This application was filed on behalf of the applicant by the Skjerven Morrill firm in San Jose, California. The law firm was dissolved in approximately March, 2003.

The file, containing copies of the original filing materials of the U.S. application as filed, together with the original receipt of Express Mail Label No. EL699358526US, was not released by the Skjerven Morrill firm and is still in their possession or in the possession of the receiver. Thus, the requested true copy of the U.S. Post Office Express Mailing label is unavailable to us.

Ladas & Parry, the firm of the undersigned attorney, assumed responsibility for this application in January, 2002. The client, who is located in Korea, furnished the undersigned with a copy of the application as filed, together with a notation that the filing receipt was not yet in their possession.

In response to the Patent Office's decision indicating that the previous petition did not satisfy the requirements of Items (1) and (3) of 37 CFR 1.10(c), the undersigned replies as follows.

With regard to item (1), the petition submitted on March 9, 2004 was filed promptly upon the undersigned's becoming aware of the incorrect filing date. The undersigned did not become aware of the filing date discrepancy until a telephone conversation with the Examiner on March 9, 2004. In January, 2002, when the responsibility for this file was transferred to the office of Ladas & Parry, a copy was not received of either the filing receipt or of the U.S. PTO Express Mail receipt showing the "date in". Thus, the application filing date shown on the Express Mail Certificate was presumed to be correct, which indicates the date of deposit in the U.S. Post Office as October 22, 2001. No reason or knowledge of this discrepancy in the filing date was discovered until the application was allowed in March, 2004 during a telephone conversation with the Examiner. The undersigned was never advised by either the client or by the Skjerven firm about the discrepancy in filing dates, and no information was evident in the filing documents that would indicate that the records in the U.S. PTO did not reflect the correct filing date of October 22, 2001.

Ladas & Parry has only recently obtained a copy of the official filing receipt from the Korean client. The Korean client was under the impression that the Skjerven Morrill firm was obtaining a corrected filing receipt as indicated in their letter of July 1, 2002 (see Exhibit 3 attached). However, the undersigned has reviewed the PAIR website and cannot find any indication of a correction of the filing date request having been entered in the Patent Office's records.

With regard to item (3), as indicated above, it is believed that the Express Mail mailing label is in the possession of the Skjerven Morrill firm, (which firm is no longer in existence) to provide a true copy of this original document. Once again, the undersigned draws the Office's attention to the Track and Confirm record from the U.S. Postal Service website, which indicates an "enroute date" of October 22, 2001. Accordingly, it is believed that the package was unequivocally in the possession of the U.S. Postal Service on October 22, 2001, therefore supporting the present petition. The delay in the U.S. Postal Service's delivery of the Express Mail package is believed to be the result of the disruption in the mail service caused by increased security precaution instituted in the Washington, D.C. mail facility between September 11, 2001 and December 1, 2001.

It is believed that a petition fee is not required. However, should such fee be deemed necessary, the Commissioner is authorized to charge our Deposit Account No. 12-0400.

Favorable reconsideration is respectfully requested.

Respectfully submitted,

May 11, 2004
Date

/33

Attorney for Applicant

Vangelis Economou, Reg. 32341
c/o Ladas & Parry
224 South Michigan Avenue
Chicago, Illinois 60604
(312) 427-1300

UNITED STATES PATENT AND TRADEMARK OFFICE

LADAS & PARRY
CHICAGO

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P.O. BOX 450
ALEXANDRIA, VA 22313-1450
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LADAS & PARRY
224 SOUTH MICHIGAN AVENUE, SUITE 1200
CHICAGO IL 60604

5.20.04

COPY MAILED
MAR 22 2004
OFFICE OF PETITIONS

In re Application of
Jang-Keun Oh
Application No. 10/053,839
Filed January 22, 2002
Attorney Docket No. AB-1114 US

ON PETITION

CW-2833

This is a decision on the petition under 37 CFR 1.10 filed, March 9, 2004.

The petition is **dismissed.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.10."

The instant petition was filed to correct what petitioner believed was an incorrect filing date accorded the above-cited application. Petitioner maintains that the correct filing date for the application should be October 22, 2001, not the currently accorded date of January 22, 2002. In support thereof, petitioner filed a copy of the Track and Confirm sheet from the United States Post Office website showing a package with label EL699358526US as being enroute on October 22, 2001, but not being delivered at the United States Patent and Trademark Office until January 23, 2002. The subject Express Mail number was also found on the transmittal sheet that accompanied the original application papers.

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

> (1) . . . be filed promptly after the person becomes aware that the Office has accorded or will accord a filing date other than the USPS deposit date;

2) [provide] the number on the Express Mail mailing label was placed on a paper(s) or fee(s) that constituted the correspondence prior to the original mailing by Express Mail; and

(3) . . . include a true copy of the Express Mail mailing label showing the date-in and of any other official notation by the USPS relied upon to show the date of deposit.

The instant petition does not satisfy the requirements of item (1) and (3) above.

As to item (1) above, it is noted that more than two years has passed since the filing date of January 22, 2002, was accorded the application, however; no request from petitioner to correct the filing date has was noted prior to the recent filing on March 9, 2004. The applicable rule requires that a petition to correct the filing date be filed promptly after the applicant becomes aware that the Office has accorded, or will accord, a filing date other than the USPS date. With any renewed petition filed, petitioner must detail when petitioner became aware of the alleged incorrect filing date so that it can be determined whether the instant petition was promptly filed thereafter.

As to item (3) above, Section 1.10(c)(3) requires that a copy of the "Express Mail" label showing the "date-in" and of any other official notification by the USPS relied upon to show the date of deposit accompany the petition. The Track and Confirm sheet is noted, however, a copy of the "Express Mail label" was not found among the petition papers. In addition to providing a copy of the "Express Mail" label, it is requested that petitioner explain what petitioner believes that it took three months for the subject Express Mail package to reach the Patent and Trademark Office, especially considering that the standard delivery time for such packages is one business day.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ladas & Parry
224 South Michigan Avenue, Suite 1200
Chicago, IL 60604

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JUN 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Jang-Keun Oh :
Application No. 10/053,839 :
Filed : October 22, 2001 :
Attorney Docket No. AB-1114 US :

This is a decision on the renewed petition under 37 CFR 1.10(c), filed May 11, 2004.

The renewed petition is granted.

The instant petition was filed to correct the filing date accorded the above-cited application. Petitioner argued that the correct filing date for the application is October 22, 2001, not January 22, 2002, as was originally accorded. In support thereof, petitioner filed a copy of the Track and Confirm sheet from the United States Post Office website showing an Express Mail package with label number EL699358526US as being enroute on October 22, 2001, but not being delivered at the United States Patent and Trademark Office until January 23, 2002.[1] Further, as part of the renewed petition, petitioner provided an explanation for the delay in filing the petition and for the delay in the arrival of the package at the United States Patent and Trademark Office. Petitioner still maintains that petitioner is unable to obtain a true copy of the Express Mail label as is a requirement of 37 CFR 1.10(c).

The arguments made in the renewed petition are persuasive, therefore; the requirement of 37 CFR 1.10(c)(3) that a true copy of the Express Mail label accompany the petition will be waived *sua sponte* pursuant to 37 CFR 1.183. The instant renewed petition is granted as petitioner has satisfied the remaining requirements of 37 CFR 1.10(c).

The application will be directed to the Office of Initial Patent Examination where the filing date for the application will be noted as October 22, 2001, and properly made of record. The Office of Initial Patent Examination will issue a corrected filing receipt, in due course.

Further questions regarding this decision should be addressed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] The subject Express Mail number was also found on the transmittal sheet that accompanied the original application papers.

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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CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPT.
P.O. BOX 1895, M.S. 641
NEW HOLLAND PA 17557

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MAR 14 2005

OFFICE OF PETITIONS

In re Application of :
Zoran Vuksa et al :
Application No. 10/053,841 : DECISION GRANTING PETITION
Filed: January 22, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 15119 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 7, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of March 1, 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 3616.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 8

JOSEPH CONVERY
621 COLFORD AVE.
COLLINGSWOOD, NJ 08108

COPY MAILED

FEB 16 2005

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Joseph Convery	:	
Application No. 10/053,849	:	
Filed: January 22, 2002	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 7, 2003, which set a shortened statutory period for reply of three (3) months. Three months extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 8, 2004.

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

This file is being forwarded to Technology Center AU 2636 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

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

#3

MAILED

JUN 02 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Herbert C. Schulze
2790 Wrondel Way, PMB36
Reno, NV 89502

In re application of : **DECISION ON PETITION**
Berndt et al. : **TO MAKE SPECIAL**
Application No. 10/053,851 : **(INFRINGEMENT)**
Filed: October 25, 2001 :
For: DRY CLEANING BUSINESS MODEL ALGORITHM

This is a decision on the petition under 37 C.F.R §1.102(d) to make the above-identified application special that was filed on April 28, 2003.

The petition requests that the above-identified application be made special under the procedure set forth in MPEP 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 February 11, 2002 lacks requirement 2(C), above. In view of this deficiency, the petition is **DISMISSED**.

Applicant has not submitted a copy of the references deemed most closely related to the subject matter encompassed by the claims.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121
(703) 605-0586 (fax)

RAR/dxn: 5/29/03

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REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

Application Number	10/053,871
Filing Date	January 24, 2002
First Named Inventor	James D. Thacker
Art Unit	1645
Examiner Name	Jana A. Hines
Attorney Docket Number	544422000300

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

APPROVED
SPRE, TC1600
2/9/05

I hereby apply to withdraw as attorney or agent for the above identified patent application.

The reasons for this request are:
Application is being transferred to another attorney.

This request is being made at the request of the assignee, **ChristinJames, LLC.**

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

CORRESPONDENCE ADDRESS

☐ Customer Number [ ] → [ ]

OR

☒ Firm or Individual Name	James Remenick (Powell Goldstein LLP)				
Address	901 New York Avenue, NW Third Floor				
City	Washington	State	DC	Zip	20001-4413
Country	USA				
Telephone	(202)347-0066			Fax	(202) 624-7222

☒ This request is made on behalf of myself and

☐ all the attorneys/agents of record,

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

☒ the attorneys/agents associated with Customer Number 25227

This request is enclosed in triplicate (including any attachments).

Name	Wayne C. Jaeschke, Jr. Registration No. 38,503
Signature	
Date	January 28, 2005

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

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: 1/28/05 Signature: _____ (Chimin Taylor)

va-91876

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DENNIS W. BEECH (LAW OFFICE OF DENNIS W. BEECH)
P.O. BOX 519
MURRIETA CA 92564-0519

COPY MAILED

OCT 22 2008

In re Application of	:	
Harraway	:	
Application No. 10/053,920	:	DECISION ON PETITION
Filed: January 24, 2002	:	
Attorney Docket No. N/A	:	
For: PORTABLE DIALYSIS MACHINE		

This is a decision on the petition under the unavoidable standard of 37 CFR 1.137(a), filed September 2, 2008 (certificate of mailing date August 27, 2008), 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 "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to timely reply to a non-final Office action, mailed July 31, 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 November 1, 2003. A Notice of Abandonment was mailed on June 1, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Petitioner argues 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. Petitioner asserts incapacitation as the cause of unavoidable delay. 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 (*e.g.*, correspond with the Office) during the period between October 31, 2003 and August 27, 2008. Such a showing must be supported by a statement from petitioner's treating physician, and such statement must provide the nature and degree of petitioner's incapacitation during this above-mentioned period.

The statement by Dr. Mahendra establishes that Mr. Harraway was diagnosed with Traumatic Stroke Injury from January 31, 2004. In February 2005, he had some heart surgery. In June of 2007, he was diagnosed with a number of conditions and underwent surgery. Afterwards, he suffered a stroke and further kidney problems and is undergoing rehabilitation.

While the Office is not unsympathetic to petitioner's health problems, it must be established that petitioner was unable to conduct business from October 31, 2003 to August 2008. The above-listed medical events do not cover the entire period of delay. For example, Dr. Mahendra's statement is evidence that January 31, 2004 was the beginning of petitioner's health problems. The due date for the Office action was October 31, 2003. The reason for three months worth of delay has not been explained by a healthcare provider. In addition, Dr. Mahendra states that in February 2005 petitioner had some heart surgery. The next medical event took place in June of 2007. Why didn't petitioner attend to his patent business during the **over two year period** between medical events?

Petitioner should note that under the circumstances of this case, he will have to provide ***documents from licensed health care providers, demonstrating the nature and extent of petitioner's incapacitation***, in such a manner that petitioner was, until the filing of the petition on August 27, 2008, prevented from taking any earlier action with respect to this patent application.

Additionally, petitioner must state how he managed to conduct his daily personal and business affairs, including scheduling and settlement of short and long term debts and business obligations, bills, rent or mortgage payments, income taxes etc., during the time in question – from October 31, 2003 to August 25, 2008. Did petitioner fail to take care of other business during the time period in question? Please be specific in response and provide statements from a persons who assisted petitioner. Petitioner must demonstrate that his health problems were so severe as to cause the deadline for responding to the Office action to have been unavoidably missed.

While petitioner asserts incapacitation as the sole cause of delay, it is noted that the July 31, 20203 non-final Office action was properly mailed to the then-correspondence address of record, which was:

LAW OFFICES OF DENNIS W. BEECH
19900 BEACH BLVD., SUITE C-2
HUNTING BEACH CA 92648

Unfortunately, it appears that applicant's attorney did not respond to the Office action. The Office has no record of receiving a timely reply.

Because petitioner was **and currently is still represented by a registered practitioner** (at least according to Office records), the Office must rely on the actions or inactions of the duly authorized and voluntarily chosen representative of the applicant, and the applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962). If the attorney made any errors, petitioners are bound by such errors.[1]

An attorney must act reasonably and prudently.

If [the] attorney somehow breach[es] his duty of care to plaintiff, then plaintiff may have certain other remedies available to him against his attorney. He cannot, however, ask the court to

[1] See California Med. Products v. Technol Med. Products, 921 F. Supp. 1219, 1259 (D. Del. 1995) (citing Smith v. Diamond, 209 U.S.P.Q. 1091, 1093 (D.D.C. 1981) (citing Link v. Walbash Railroad Co., 370 U.S. 626, 8 L. Ed. 2d 734, 82 S. Ct. 1386 (1962))).

overlook [the attorney's] action or inaction with regard to the patent application. He hired the [attorney] to represent him. [The attorney's] actions must be imputed to him.[2]

Petitioner is advised that delay resulting from a failure in communication between a client and a registered practitioner is not unavoidable delay. In Re Kim, 12 U.S.P.Q.2d 1595 (Comm'r Pat. 1988).

The record indicates that Mr. Beech was responsible for prosecution of the application when the reply necessary to avoid abandonment was due. Therefore, petitioner must provide a statement from Mr. Beech explaining why action was not timely taken to prevent the application from becoming abandoned.

The USPTO is requesting that Mr. Beech provide a statement explaining why appropriate action was not timely taken to prevent the application from becoming abandoned. What was the agreement between Mr. Beech and applicant regarding representation?

Petitioner has appointed a representative to conduct all business before the U.S. Patent and Trademark Office (Office). The Office will not engage in dual correspondence with petitioner and petitioner's representative. Accordingly, petitioner must conduct all future correspondence with this Office through the representative of record. If petitioner no longer wishes to be represented by the representative of record, then a revocation of the power of attorney or patent agent should be submitted. A correspondence address must be included on the correspondence instructing the Office where all future communications are to be mailed. *See* 37 CFR 1.33(a). A courtesy copy of this decision will be mailed to the address listed on the petition. It is noted that only a partial address was listed on the petition. The undersigned conducted an Internet search to ascertain a complete address for Mr. Harraway.

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

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[2] Haines v. Quigg, 673 F. Supp. 314, 317, 5 U.S.P.Q. 2d (BNA) 1130 (citing Link v. Walbash Railroad Co., 370 U.S. 626, 8 L. Ed. 2d 734, 82 S. Ct. 1386 (1962) ("Petitioner voluntarily chose his attorney as his representative in the action and he cannot now avoid the consequences of the acts or omissions of this freely selected agent ... Each party is deemed bound by the acts of his lawyer-agent and is considered to have 'notice of all facts, notice of which can be charged upon the attorney.'" (emphasis added); Inryco, Inc. v. Metropolitan Engineering Co., Inc., 708 F.2d 1225, 1233 (7th Cir. 1983) ("Courts hesitate to punish a client for its lawyers gross negligence, especially when the lawyer affirmatively misled the client" but "if the client freely chooses counsel, it should be bound to counsel's actions."); see also Wei v. State of Hawaii, 763 F. 2d 370, 372 (9th Cir. 1985); LeBlanc v. I.N.S., 715 F.2d 685, 694 (1st Cir. 1983)). See also Smith v. Diamond, 209 U.S.P.Q. (BNA) 1091 (D. D.C. 1981).

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.

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

Petitioner may wish to 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).

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 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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: JAMES D. HARRAWAY
42207 6TH ST WEST, SUITE 106
LANCASTER CA 93534

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ZIMMER TECHNOLOGY - BAKER & DANIELS
111 EAST WAYNE STREET, SUITE 800
FORT WAYNE, IN 46802

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In re Application of
Dana Mears et al
Application No. 10/053,931
Filed: January 22, 2002
Attorney Docket No. ZIM0048-02

: DECISION DISMISSING PETITION TO WITHDRAW FROM ISSUE UNDER 37 CFR 1.313((c)(2)

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

The petition is **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.

The instant petition fails to comply with item (2) above. In this regard, the petition requests withdrawal from issue "so that a supplemental declaration correcting a deficiency in the declaration previously filed in this matter can be submitted in this matter." However, as 37 CFR 1.114 requires a "submission," the petition cannot be granted until such time as a submission is received.

Petitioner is advised that any renewed petition for withdrawal from issue under 37 CFR 1.313(c)(2) with a "submission" must be received and granted by the deciding official's office prior to issuance in order to effectively withdraw the application from issue. Any renewed petition (with the submission) may be facsimile transmitted directly to the Office of Petitions at (571) 273-0025.

Any questions concerning this matter may 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ZIMMER TECHNOLOGY - BAKER & DANIELS
111 EAST WAYNE STREET, SUITE 800
FORT WAYNE, IN 46802

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MAR 21 2005

OFFICE OF PETITIONS

In re Application of :
Dana Mears et al :
Application No. 10/053,931 : DECISION GRANTING PETITION
Filed: January 22, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ZIM0048-02 :

This is a decision on the renewed petition, filed March 18, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 21, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

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
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WILLIAM W. JONES
6 JUNIPER LANE
MADISON CT 06443

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Michael D. Cecchi et al :
Application No. 10/053,944 :
Filed: January 24, 2002 :
Attorney Docket No. H-1351 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 22, 2004, to revive the above-identified application. This is also a decision on the petition 37 CFR 1.181, filed May 10, 2004 to withdraw holding of abandonment.

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

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

The above-identified application became abandoned for failure to reply in a timely manner to the nonfinal Office action mailed October 14, 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 15, 2004.

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

This matter is being referred to Technology Center AU 1744.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 11

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

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OFFICE OF PETITIONS

In re Application of :
Karen Gibson :
Application No. 10/053,962 : ON PETITION
Filed: January 22, 2002 :
Attorney Docket No. 330499-00007 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 13, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned at midnight on December 13, 2002.

The Revocation and Power of Attorney and Change of Correspondence Address has been accepted and recorded.

The application file is being forwarded to Technology Center 1600, Art Unit 1614 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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SNELL & WILMER, L.L.P.
ONE ARIZONA CENTER
400 E. VAN BUREN
PHOENIX AZ 85004-2202

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MAR 07 2006

OFFICE OF PETITIONS

In re Application of :
Aron T. Lunde :
Application No. 10/053,963 : DECISION ON PETITION
Filed: 22 January, 2002 :
Attorney Docket No. 37829.0400 :

This is a decision on the petition filed on 22 September, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 6 October, 2005, for failure to timely file a proper reply to the Notice of Appeal filed on 5 August, 2005, which set a two (2) month shortened period for reply. No extension of the time for reply in accordance with 37

[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)).

CFR 1.136(a) were filed. Notice of Abandonment was mailed on 9 May, 2005.

Petitioner has filed a Request for Continued Examination (RCE) and fee as the required reply, and indicated that the amendment filed on 7 February, 2005, a copy of which is included with the present petition is the submission required by 37 CFR 1.114.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

This application is being referred to Technology Center Art Unit 2823 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

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HARNESS DICKEY & PIERCE
7700 BONHOMME, STE 400
ST. LOUIS, MO 63105

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OFFICE OF PETITIONS

In re Application of :
Dennis P. Long et al :
Application No. 10/053,968 : ON PETITION
Filed: January 22, 2002 :
Attorney Docket No. 7377-000048 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 4, 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 6, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on April 6, 2004, did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed January 11, 2005. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. Extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on April 7, 2004.

The above-identified application is being revived solely for purposes of continuity with a submission under 37 CFR 1.114 (request for continued examination (RCE)).

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 $120 extension of time submitted on January 25, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 08-0750.

The filing of a terminal disclaimer is unnecessary as a condition for revival pursuant to the provisions of 37 CFR 1.137(b) under the current rules. Therefore, the terminal disclaimer filed with the petition will not be processed and the fee of $130 is also being credited to the above-noted Deposit Account No.

After this decision is mailed, petitioner's Deposit Account No. 08-0750 will be credited in the amount of $250.00.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center 3742 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Howrey Simon Arnold & White
750 Bering Drive
Houston, TX 77057

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OFFICE OF PETITIONS

In re Application of :
Douglas P. Allard :
Application No. 10/053,978 : ON PETITION
Filed: January 18, 2002 :
Attorney Docket No. 11533.0024.NPUS00 :

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

The petition is **GRANTED**.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Publishing Division to be processed into a patent.

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

cc: Howrey Simon Arnold & White, LLP
550 S. Hope Street, Suite 1100
Los Angeles, CA 90044

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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JAN 28 2004

Paper No. 10

In re Application of
Nikrooz Niknamad
Application No. 10/053,979
Filed: January 19, 2002
Attorney Docket No. RSNN

: DECISION ON PETITION

This is a decision on the petition filed by on December 22, 2003 by which petitioner requests withdrawal of the examiner's final rejection, entry of a replacement drawing requested by the examiner, and examination of claims 3 and 4 in light of the replacement drawing. The petition is considered pursuant to 37 CFR 1.181, and no fee is required. A refund of the $130.00 petition fee will be schedule in due course.

The petition is denied.

Petitioner has set forth no basis for holding that making the action dated November 18, 2003 final was improper. Accordingly, there is no basis for withdrawal of the finality of that action.

As to the issue of entry of the replacement drawings, the mere fact that the examiner required replacement drawings does not mean that the examiner must enter replacement drawings that appear to contain new matter. Petitioner's attention is directed to the fact that the shape of the cap in proposed Figures 2A and 2B differs from the shape of any originally disclosed cap. In proposed Figure 2A, the cap is shown with a vertical lowermost portion, an enlarged inwardly tapering frustoconical portion, a second distinct frustoconical portion joined to the upper edge of the first tapering frustoconical portion, and a circular top surface. In proposed Figure 2B, the cap is shown with a single large inwardly tapering frustoconical portion joined at its lower edge to a cylindrical lower cap portion and to a smaller cylindrical portion at its upper edge, with a circular top surface joined to the smaller cylindrical portion. No original disclosure supports either shape for the cap. In addition, while the showing in Figures 2A and 2B with respect to element 32 appears to address the examiner's original criticism vis- a-vis original Figure 2, the proposed Figures 2A and 2B do not show the tapered edges 34 to best advantage.

In summary, the examiner has not been shown to have acted in an arbitrary or capricious manner with respect to refusing to enter Figures 2A and 2B, each of which appear to contain prohibited new matter. Neither has the examiner's action in making the Office letter dated November 18, 2003 final been shown to have been arbitrary or capricious. There is no basis for granting any of the relief requested.

The application is being forwarded to the Head Supervisory Applications Examiner in Technology Center 3700 for scheduling the refund as discussed above. Thereafter, the application will be retained in the Technology Center 3700 Central Files pending the filing of a proper reply to the final rejection. See 37 CFR 1.113 and 1.116. Petitioner is reminded that the period for filing such reply remains as set in the final rejection notwithstanding the filing of the instant petition. See 37 CFR 1.181(f).

Adjustment date: 02/20/2004 SZIHNERI
02/02/2004 SDENBOB1 00000107 10053979
01 FC:1460 -130.00 OP

PETITION DENIED.

E. Rollins-Cross, Director
Technology Center 3700

Robert S. Smith
1263 Emory Street
San Jose, CA 95126

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JJGJR.: 02-05

Paper No: __

CONOCO PHILLIPS COMPANY
600 NORTH DAIRY ASHFORD
HOUSTON TX 77079-1175

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FEB 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Beuke, et al. :
Application No. 10/054,006 :
Filing Date: 21 January, 2002 :
Attorney Docket No. 9583.0-01 :

This is a decision on the petition filed on 20 December, 2004, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 27 June, 2003, with response due absent extension of time on or before Monday, 29 September, 2003;
- the application went abandoned after midnight 29 September, 2003;
- the Office mailed the Notice of Abandonment on 30 January, 2004;

- on 20 December, 2005, Petitioner filed the instant petition and fee, the reply in the form of a request for continued examination (RCE), fee, and submission in the form of an amendment, and made the statement of unintentional delay;

- for reasons that are unclear, despite the abandoned status of the application, the Examiner nonetheless issued a final Office action on the matter on 13 January, 2005.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

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[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner has satisfied the requirements of the regulation.

Given the period for which the instant application was abandoned, the record (including the petition filed on 20 December, 2004) does not necessitate a finding that the delay between midnight 27 September, 2003, and 20 December, 2004, was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on duty of candor and good faith of Petitioner/Counsel Bronwyn A. Welvaert (Reg. No. 52,350) when accepting Petitioners' representation that the delay in filing the response was unintentional.[7]

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to Technology Center 1700 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

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

[7] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

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HOUSTON TX 77079-1175

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FEB 19 2008

In re Application of :
Beuke, et al. :
Application No. 10/054,006 :
Filing Date: 21 January, 2002 :
Attorney Docket No. 001349.0238 :

This is a decision on the petition filed on 22 January, 2007, supplemented on 14 February, 2008,alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 13 January, 2005, with response due absent extension of time on or before 13 April, 2005;
- the application went abandoned after midnight 13 April, 2005;
- the Office mailed the Notice of Abandonment on 12 August, 2005;
- there appears to be considerable confusion in the file in that the Examiner mailed the 13 January, 2005, Office action while the application previously was abandoned with a petition was pending, and the decision on that matter seeming to have crossed in time with the 12 August, 2006, abandonment–thus producing uncertainty on the part of the Petitioner as to the status of the application;
- thereafter, on 22 January, 2007, Petitioner filed the instant petition with fee, the reply in the form of an after final amendment, which as one registered to practice before the

Office Petitioner is aware is not of right (and not a proper reply[1]), and made the statement of unintentional delay;

- the Examiner indicated that an after-final amendment would not be entered, and on 14 February, 2008, Petitioner supplemented the petition with a request for a continued examination (RCE) and fee, with a submission under 37 C.F.R.. §1.114 in the form of an amendment (previously filed).

Petitioner will note that the availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

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[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).)

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

See, specifically, the regulations at 37 C.F.R. §10.18.

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a 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) is **granted**.

The instant application is released to Technology Center/AU 1724 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[5] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[9] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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MAY 12 2009

OFFICE OF PETITIONS

In re Application of :
Beuke, et al. :
Application No. 10/054,006 : DECISION ON PETITION
Filed: January 21, 2002 :
Attorney Docket No. 9583.0-01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned May 30, 2008 for failure to timely submit a proper reply to the Notice of Allowance and Issue Fee Due (Notice) mailed February 29, 2008. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed June 24, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee and publication fee payment, (2) the required petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to the Office of Data Management for further processing.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : ~~3/23/05~~ 1/20/06

Paper No.: —

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/054019 Patent No.: 6794497B2

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: _____

SPE

1623
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060727

DATE : July 27, 2006

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction on Patent No.: 6940817 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 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Seema Rao **Art Unit** 2616

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Paper No. 17

ANTHONY P. ONELLO, JR.
MILLS & ONELLO LLP
SUITE 605
ELEVEN BEACON STREET
BOSTON MA 02108

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FEB 20 2004

OFFICE OF PETITIONS

In re Application of
Jeffrey P. Fugere
Application No. 10/054,084
Filed: January 22, 2002
Attorney Docket No. BRD-0002CIP2

ON PETITION

This is a decision on the petition, filed February 20, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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 (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 3752 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
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Paper No. 9

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

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OFFICE OF PETITIONS

In re Application of :
Fontana, et al. :
Application No. 10/054,113 : ON PETITION
Filed: October 20, 2001 :
Attorney Docket No. 8364M :

This is a decision on the petition under 37 CFR 1.137(b), filed June 8, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action mailed October 10, 2003. Accordingly, this application became abandoned on January 11, 2004. A Notice of Abandonment was mailed on May 27, 2004.

Please note, 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 $420.00 extension of time submitted with the petition on June 8, 2004 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and has not been charged.

The file is being forwarded to Technology Center 3700 for review of the amendment filed June 8, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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JUN 09 2004

OFFICE OF PETITIONS

In re Application of	:	
James W. Yonker et al	:	
Application No. 10/054,145	:	ON PETITION
Filed: January 22, 2002	:	
Attorney Docket No. J-3315	:	

This is a decision on the petition, filed March 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 August 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]

The instant petition under 37 CFR 1.313(c)(2), the RCE and the IDS, filed on March 3, 2004, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Steven J. Wietrzny appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he act. However, if Mr. Wietrzny desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy

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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).

of this decision is being mailed to Mr. Wietrzny, the petitioner herein. 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) 305-8859.

The examiner of Technology Center Art Unit 1616 will consider the request for continued examination under 37 CFR 1.114 filed March 3, 2004.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
STEVEN J. WIETRZNY
QUARLES & BRADY LLP
411 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202

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KLARQUIST SPARKMAN, LLP
One World Trade Center
Suite 1600
121 S. W. Salmon Street
Portland OR 97204

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MAR 3 0 2004

OFFICE OF PETITIONS

Applicant: Ng et al.
Appl. No.: 10/054,162
Filing Date: January 18, 2002
Title: MATERIALS COMPRISING POLYMERS OR OLIGOMERS OF SACCHARIDES CHEMICALLY BONDED TO A SUPPORT USEFUL FOR CHROMATOGRAPHY AND ELECTROPHORESIS APPLICATIONS
Attorney Docket No.: 4810-62169/RJP
Pub. No.: US 2003/0159992 A1
Pub. Date: August 28, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on October 23, 2003 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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P.O. Box 1450
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PATREA L. PABST
PABST PATENT GROUP
400 COLONY SQUARE
SUITE 1200
ATLANTA, GA 30361

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MAR 1 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Kai-Uwe Lewandrowski et al	:	
Application No. 10/054,171	:	ON PETITION
Filed: January 17, 2002	:	
Attorney Docket No. CSI 126	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 30, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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 November 1, 2004, 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 January 2, 2005. See MPEP 1215.04.

The instant petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an appeal brief; (2) the petition fee; and (3) the required statement of unintentionally delay have been received.

This matter will be referred to Technology Center AU 1617.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

Wan Laymon
Petitions Examiner
Office of Petitions

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P.O. BOX 969
AUSTIN TX 78767-0969

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OFFICE OF PETITIONS

In re Application of
Scott Leonard Daniels, et al.
Application No. 10/054,184
Filed: January 22, 2002
Attorney Docket No. AUS919970560US2

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Corrected Application Papers mailed April 9, 2002. The notice required substitute drawings in compliance with 37 CFR 1.84.

Petitioner explains that while the response was due no later than June 9, 2002, the requisite drawings were filed July 21, 2003, along with a two month petition for extension of time. Petitioner requests that the application be revived under 37 CFR 1.137(b) and that the extension of time fee be refunded.

The petition is found to be in compliance with 37 CFR 1.137(b). Since an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply, the $410 extension of time submitted on July 21, 2003 is unnecessary and will be credited to petitioner's deposit account.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being referred to the Technology Center AU 2857 for examination in due course.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: BRACEWELL & PATTERSON, L.L.P.
111 CONGRESS AVENUE, SUITE 2300
AUSTIN TX 78701

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Paper No. 11

Marc H. Johnson
3670 Yucca Drive
Lake Havasu, AZ 86404

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JUL 19 2004

OFFICE OF PETITIONS

In re Application of :
Marc H. Johnson :
Application No. 10/054,202 : ON PETITION
Filed: May 10, 2002 :
Attorney Docket No. N/A :

This is a decision on the petitions filed March 16, 2004, under 37 CFR 1.137(a) and 1.137(b), which are being treated as a petition to accord a filing date under 37 CFR 1.53.

The petition to accord a filing date is **GRANTED.**

The application was deposited on January 24, 2002. However, a "Notice of Incomplete Nonprovisional Application" (Notice) was mailed to applicant on March 11, 2002, which set a two-month period within which to submit a reply. A reply was received in the Office on May 10, 2002, and a letter withdrawing the first Notice was mailed to applicant on June 6, 2002. Additionally, a second Notice of Incomplete Nonprovisional Application was mailed to applicant on the same date. Applicant sent in a reply to the second Notice on August 12, 2002, and a Notice of Abandonment was mailed to applicant on May 2, 2004. The Notice of Abandonment provided instructions on revival under 37 CFR 1.137(a) and (b).

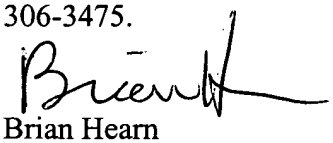
A petition to revive is inappropriate under the circumstances of the present application. The present application was determined to be incomplete by the Office of Initial Patent Examination, which resulted in the Notice being sent to applicant informing him that no filing date had been accorded the application. However, a review of the application file discloses that the reply submitted on May 10, 2002 would entitle the application to a filing date. The requirements for obtaining a filing date for a nonprovisional application for patent are set forth in 35 U.S.C. 111(a). A claim in compliance with 35 U.S.C. 112, second paragraph, is required by 35 U.S.C. 111(a). Therefore, the correct filing date of this application is May 10, 2002, the date of receipt

of a claim in the Office. Since the reply was filed timely, the application was improperly held abandoned. Accordingly, the unavoidable petition fee of $55 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 such a request.

An examination of this application reveals that applicant is unfamiliar with the patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection of the invention disclosed. Applicant is strongly advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The USPTO cannot aid in selecting an attorney or agent.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **May 10, 2002**, using the oath or declaration filed on January 24, 2002, and the specification, drawings, and claims, filed on May 10, 2002. The papers deposited with the original application and the papers filed March 16, 2004 **will not** be processed or examined.

Telephone inquiries concerning this decision should be directed to Marianne Morgan at (703) 306-3475.



Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Examination Policy

Paper No. 5

EXXON MOBIL RESEARCH AND ENGINEERING COMPANY
P.O. BOX 900
1545 ROUTE 22 EAST
ANNANDALE, NJ 08801-0900

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JUN 03

OFFICE OF PETITIONS

In re Application of
Stuart Leon Soled et al.
Application No. 10/054,228
Filed: November 13, 2001
Attorney Docket No. NLF-0101

ON PETITION

This is a decision on the petition under 37 CFR 1.10 (e), filed February 4, 2002 (certificate of mail date) requesting that the application be accorded a filing date of November 13, 2001.

The petition is **DISMISSED AS MOOT**.

The instant petition is filed with a duplicate application because petitioners had not received USPTO acknowledgment of the submission of this Application.

Please be advised that the application was in fact received, assigned application serial number 10/054,228 and a filing date of November 13, 2001 duly granted.

In view of the above, this application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries specific to this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

#8 DW

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MAR 24 2004

OFFICE OF THE DIRECTOR
TC 3600

Nicholas Mesiti
Victor A. Cardona
Heslin Rothenberg Farley & Mesiti P.C.
5 Columbia Circle
Albany, NY 12203

Paper No. 8

In re Application of :
John E. Rode :
Application No. 10/054,253 :
Filed: January 22, 2002 :
For: ADJUSTABLE DISC SPRING SYSTEMS AND METHODS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on December 17, 2003.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

☒ Certificate of Mailing/Transmission signed on May 12, 2003. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

cps/2/18/04

Randolph A. Reese
Special Programs Examiner
Group 3600

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 6

ADAN AYALA, ESQ.
BLACK & DECKER INC.
701 E. JOPPA ROAD, TW-199
TOWSON, MD 21286

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SEP 2 3 2002

OFFICE OF PETITIONS

In re Application of :
Frederick R. Bean et al :
Application No. 10/054,257 : ON PETITION
Filed: January 22, 2002 :
Attorney Docket No. TN-2239 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed July 1, 2002, to accept an unintentionally delayed claim under 35 U.S.C.§ 119(e) for the benefit of prior filed provisional Application No. 60/265,567, filed February 1, 2001.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR 1.78(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to prior-filed provisional Application No. 60/265,567, filed February 1, 2001.

The instant pending nonprovisional application was filed on January 22, 2002, within twelve months of the filing date of prior filed provisional application Application No. 60/265,567, which was filed on February 1, 2001, and for which priority is claimed. While a reference to the prior-filed provisional application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the oath or declaration.

The current procedure where a claim for priority under 37 CFR 1.78(a)(5) is not included the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication

on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR 1.78(a)(5). However, on the other hand, if the USPTO does not note the claim for priority to the provisional application in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of provisional Application No. 60/265,567 in the oath or declaration, as shown by its inclusion on the filing receipt.

In view of the above, the $1,280 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Karen Creasy at (703)305-8859. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center AU 3724 for processing the amendment filed July 1, 2002 and for consideration by the examiner of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior filed provisional Application No. 60/265,567, filed on February 1, 2001.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Note 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Dat of Request: 9-20-02 | 2 Serial/Patent # 10/054257

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
/	Petition		7-1-02	$ 1280
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ 1280

8 TO BE REFUNDED BY:

- [ ] Treasury Check
- [/] Credit Deposit A/C #:

9 [0][2]--[2][5][4][8]

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [ ] No Fee Due (Explanation):

Petition not necessary

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Karen Creasy TITLE: Pets. Exam.

SIGNATURE: Karen Creasy PHONE: 305-8859

OFFICE: DAC for Patents

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 9/23/02

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Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
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CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

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APR 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Imanishi et al.	:	DECISION ON APPLICATION
Application No. 10/054,300	:	FOR
Filed: January 22, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 01834CIP/HG	:	

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 CFR §1.705)" filed February 2, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from four hundred seventy-three (473) days to one thousand one hundred nineteen (1119) 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 one thousand thirty-three (1033) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 4, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term

adjustment (PTA) to date is 473 days. On February 2, 2007, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants assert that the Office erred in entering a period of reduction of 646 days for applicant delay.

Applicants state that any patent granted on this application is not subject to a terminal disclaimer.

Applicants are correct that the reduction of 646 days is not warranted. A review of the application history confirms that applicants' complete response to the Notice to File Missing mailed March 25, 2002, was received in the Office on April 16, 2002. As such, the response was filed inside the three-month period under 37 CFR 1.704(b). Applicants did not fail to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application mailed March 25, 2002.

However, this review also reveals a basis for entry of a period of reduction for applicant delay. As stated in MPEP 2732:

> 37 CFR 1.704(c)(7) establishes submission of a reply having an omission (37 CFR 1.135(c)) as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.

Submitting a reply having an omission requires the Office to issue an action under 37 CFR 1.135(c) and await and process the applicant's reply to the action under 37 CFR 1.135(c) before the initial reply (as corrected) can be treated on its merits. In addition, 37 CFR 1.704(c)(7) provides that in such a case the period of adjustment set forth in 37 CFR 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 reference to 37 CFR 1.135(c) is parenthetical because 37 CFR 1.704(c)(7) is not limited to Office actions under 37 CFR 1.135(c) but applies when the Office issues any action or notice indicating that a reply has an omission

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[1] PALM records indicate that the Issue Fee payment was received on March 30, 2007.

which must be corrected: e.g., (1) a decision on a petition under 37 CFR 1.47 dismissing the petition as lacking an item necessary to grant the petition; or (2) a notice indicating that the computer readable format sequence listing filed in reply to a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (PTO-1661) does not comply with 37 CFR 1.821 et seq.

On January 6, 2004, at the request of the Office, applicants submitted a duplicate CRF of sequence listing[2]. By Notice mailed February 11, 2004, applicants were advised of omissions in this response. On April 1, 2004, applicants submitted a response correcting the omissions. Therein, applicants did not dispute the validity of the Office's assertion that there were omissions in their response. In addition, it is specifically noted that the Statement under 37 CFR 1.821 provided was signed March 18, 2004. Thus, it was not a duplicate from the earlier filing. This further supports a conclusion that there were omissions in applicants' response as originally filed April 16, 2002 (and resubmitted January 6, 2004). Thus, a period of reduction of 86 days for the period beginning on the day after the date the reply having an omission was filed, January 7, 2004, and ending on the date that the reply or other paper correcting the omission was filed, April 1, 2004 is 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 thirty-three (1033) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Patent Publication has been advised of this decision. The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment

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[2] As shown in the record of the application, applicants' original response filed April 16, 2002 was damaged in the mail (and thus, was not reviewed by the Office). Under the circumstances, it is appropriate to use the duplicate filed January 6, 2004 in ascertaining applicant delay pursuant to 1.704(c)(7).

of the issue fee and satisfaction of all outstanding requirements.

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

PTA Calculations for Application: 10/054300			
Application Filing Date:	01/22/2002	PTO Delay (PTO):	1119
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	646
Post-Issue Petitions:	0	Total PTA (days):	1033
PTO Delay Adjustment:	560		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
65	04/09/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		86	
64	04/09/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	646		
57	01/04/2007	MAIL NOTICE OF ALLOWANCE			
56	12/26/2006	ISSUE REVISION COMPLETED			
55	12/26/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
54	12/26/2006	CASE DOCKETED TO EXAMINER IN GAU			
53	12/26/2006	NOTICE OF ALLOWABILITY			
52	09/22/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
51	09/22/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
50	09/22/2006	REFERENCE CAPTURE ON IDS			
49	09/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	47
48	09/29/2006	DATE FORWARDED TO EXAMINER			
47	09/22/2006	RESPONSE AFTER NON-FINAL ACTION			
46	06/27/2006	MAIL NON-FINAL REJECTION			
45	06/23/2006	NON-FINAL REJECTION			
44	04/01/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	03/09/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
42	04/19/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	05/01/2006	DATE FORWARDED TO EXAMINER			
40	04/26/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
39	04/14/2006	MAIL RESTRICTION REQUIREMENT	1119		-1

38	04/13/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
37	04/04/2006	CASE DOCKETED TO EXAMINER IN GAU			
36	11/23/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
35	04/22/2005	CORRESPONDENCE ADDRESS CHANGE			
34	10/20/2004	MISCELLANEOUS INCOMING LETTER			
33	04/01/2004	REFERENCE CAPTURE ON IDS			
32	04/01/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	03/09/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	07/17/2002	PRELIMINARY AMENDMENT			
29	04/24/2002	PRELIMINARY AMENDMENT			
28	04/19/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	08/30/2004	CASE DOCKETED TO EXAMINER IN GAU			
26	04/19/2002	REFERENCE CAPTURE ON IDS			
24	08/26/2004	CASE DOCKETED TO EXAMINER IN GAU			
23	07/27/2004	REFERENCE CAPTURE ON IDS			
22	05/10/2002	MISCELLANEOUS INCOMING LETTER			
21	04/24/2002	PRELIMINARY AMENDMENT			
19	04/15/2004	APPLICATION DISPATCHED FROM OIPE			
18	04/16/2004	APPLICATION IS NOW COMPLETE			
17	04/01/2004	ADDITIONAL APPLICATION FILING FEES		646	4
16	04/01/2004	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
15	04/01/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
14	01/22/2002	CLAIM PRELIMINARY AMENDMENT			
13	04/14/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
12	02/11/2004	SEQUENCE ERRORS			
9	04/16/2002	ADDITIONAL APPLICATION FILING FEES			
7	04/16/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
6	02/09/2004	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
5	04/11/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC			

		115, OATH OF THE APPLIC			
4	03/25/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	03/08/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	02/05/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/22/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No.

FRISHAUF, HOLTZ, GOODMAN &
CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

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JUL 31 2007

OFFICE OF PETITIONS

In re Patent No. 7,217,805	:	DECISION ON REQUEST
Imanishi et al.	:	FOR RECONSIDERATION OF
Issue Date: May 15, 2007	:	DECISION ON APPLICATION
Application No. 10/054,300	:	FOR PATENT TERM ADJUSTMENT
Filed: January 22, 2002	:	and
Atty Docket No. 01834CIP/HG	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is in response to the request for reconsideration of decision on the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 CFR §1.705)" mailed April 10, 2007. Applicants request that the revised patent term adjustment be corrected from one thousand thirty-three (1033) as stated in the decision to one thousand one hundred nineteen (1119) days.

The request for reconsideration of decision on application for patent term adjustment is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one thousand one hundred nineteen **(1119)** days.

By decision mailed April 10, 2007, the application for patent term adjustment filed February 2, 2007 was granted-in-part. Based on the undersigned's review of the application history, a period of reduction pursuant 37 CFR 1.704(c)(7) for the filing of a response on April 1, 2004. It was concluded that the record supported a conclusion that there were omissions in applicants' response as originally filed April 16, 2002 (and resubmitted January 6, 2004). Thus, a period of reduction of 86

days for the period beginning on the day after the date the reply having an omission was filed, January 7, 2004, and ending on the date that the reply or other paper correcting the omission was filed, April 1, 2004 is properly entered.

The instant renewed petition was timely filed within 2 months of the mailing date of the decision. On instant request for reconsideration, petitioner further explains the circumstances of the filing of the papers on January 6, 2004 and April 1, 2004. In light of these comments, the record was further reviewed. The "Request for Substitute Papers" of record corroborate petitioner's claim that there was no failure to engage within the meaning of 37 CFR 1.704(c)(7). Specifically, a review of these papers as well as the resubmissions, in light of petitioner's comments, supports a conclusion that the submission of substitute papers was not due to an omission by applicants, but due to the original papers being damaged in the "United States Postal Service sanitization process." Accordingly, the reduction of 86 days pursuant to 37 CFR 1.704(c)(7) is not warranted and has been removed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance (and the revised patent term adjustment indicated on the patent) is one thousand one hundred nineteen (1119) days.

No fee is required with this request for reconsideration.

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 thousand one hundred nineteen **(1119)** 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 : 7,217,805 B2

DATED : May 15, 2007

INVENTOR(S) : Imanishi 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 (1033) days

Delete the phrase "by 1033" and insert – by 1119 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/19/09

TO SPE OF : ART UNIT 1623 Mcintosh III, Travis

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/054300 Patent No.: 7217805

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

H. Riley

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The C of C has been approved.

/S. A. Jiang/ — **SPE**

1623 — **Art Unit**

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Paper No. 12

JIM WILLIAMS, CFO
INTEGRATED TELECOM EXPRESS, INC.
400 RACE STREET
SAN JOSE, CA 95126

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NOV 1 9 2003

OFFICE OF PETITIONS

In re Application of
Young et al.
Application No. 10/054,327
Filed: November 13, 2001
Attorney Docket No. ITEX 99001C2

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 16, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed March 27, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on June 28, 2003.

In view of the nonacceptance of the power of attorney previously mailed out on November 17, 2003, if the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 2600 for further examination on the merits.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Michael Farjami, Esq.
FARJAMI & FARJAMI, LLP
16148 Sand Canyon
Irvine, CA 92618

UNITED STATES PATENT AND TRADEMARK OFFICE

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November 20, 2006

Patent No. : 6,904,083 B2
Ser. No. : 10/054327
Inventor(s) : Young, et al.
Issued : June 7, 2005
Title : **DSL LINK WITH EMBEDDED CONTROL AND MULTI-CHANNEL CAPABILITY**
Docket No. : 0200109C2

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.

Comparison of the patent in column 13, line 9, and column 13, line 12, and column 16, line 9, with the corresponding location in the application file reveals that there is no discrepancy.

In view of the foregoing, your request is hereby denied.

Elisha Evans
For Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

FARJAMI & FARJAMI LLP
26522 LA ALAMEDA AVENUE, SUITE 360
MISSION VIEJO CA 92691

CBN/eme

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NOV 13 2003

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PAPER NO. 7

In re Application of Alfred A. Margaryan Serial No: 10/054,328 Filed: January 21, 2002 For: FLUOROPHOSPHATE GLASS AND METHOD FOR MAKING THEREOF	:	PETITION UNDER M.P.E.P. 708.02, IV

This is in response to the petition filed August 29, 2003, requesting that the above-identified application be granted Special Status under Section 708.02, IV of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is granted.

The petition is **GRANTED.**

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Dennis W. Beech
Landmark Building- Newland Center
Suite C-2
199000 Beach Bulevard
Huntington Beach, CA 92648

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DENNIS W. BEECH (LAW OFFICE OF DENNIS W. BEECH)
P.O. BOX 519
MURRIETA CA 92564-0519

COPY MAILED

APR 25 2007

OFFICE OF PETITIONS

In re Application of :
ALFRED A. MARGARYAN :
Application No. 10/054,328 : ON PETITION
Filed: January 21, 2002 :
Attorney Docket No. n/a :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 6, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 18, 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 19, 2003. A Notice of Abandonment was mailed on July 1, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). **The instant petition lacks item (3).**

Petitioner has not shown to the satisfaction of the Director that the delay was unintentional under 37 CFR 1.137(b).

The statement of unintentional delay was made by attorney Peter Ganjian, who was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Petitioner filed a "supplemental statement establishing unintentional delay" made by Mr. Jack J. Illare to explain the circumstances of the delay.

The record states that Dr. Lonnie Lindsey was the sole director and president of Nano Teknologies, LLC., the assignee at the time the application became abandoned. Dr. Lindsey's responsibilities included the management of the company's day-to-day activities and the protection and maintenance of the company's intellectual property. The attorney of record for the application was Dennis W. Beech. All prosecution correspondence from the USPTO was sent to Mr. Beech who then routed the communications to Dr. Lindsey[1] for instruction. Mr. Illare was a passive investor in company, Nano Teknologies, who on record does not appear to be directly involved in the prosecution of the application.

Where the applicant permits a third party (whether a partial assignee, licensee, or other party) to control the prosecution of an application, the third party's decision whether or not to file a reply to avoid abandonment is binding on the applicant. See Winkler, 221 F. Supp. at 552, 138 USPQ at 667. Where an applicant enters an agreement with a third party for the third party to take control of the prosecution of an application, the applicant will be considered to have given the third party the right and authority to prosecute the application to avoid abandonment (or not prosecute), unless, by the express terms of the contract between applicant and the third party, the third party is conducting the prosecution of the application for the applicant solely in a fiduciary capacity. See Futures Technology Ltd. v. Quigg, 684 F. Supp. 430, 431, 7 USPQ2d 1588, 1589 (E.D. Va. 1988). Otherwise, the applicant will be considered to have given the third party unbridled discretion to prosecute (or not prosecute) the application to avoid abandonment, and will be bound by the actions or inactions of such third party.

Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See In re Maldague, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

The record shows that the Dr. Lindsey and Dennis W. Beech appeared to be the responsibility party for the prosecution of the application when the reply necessary to avoid abandonment was due. As a passive investor Mr. Llare is not the responsible party in the prosecution of the application. Therefore, the statements made by Mr. Llare are not sufficient to establish why no response was filed to the office action of November 13, 2003. Petitioner has not provided any

[1] Mr. Beech also forwarded the USPTO correspondence to the inventor Dr. Margaryan, who was fired from Nano Teknologies on April 28, 2002. Dr. Margaryan assigned his rights to Nano Teknologies on June 23, 2003.

evidence to show that the abandonment was unintentional. While Mr. Llare asserts that Dr. Lindsey may have mislead him and mishandled the intellectual property matters before Nano Teknologies, the record shows that control of the prosecution was given to Dr. Lindsey. As the responsible party, if Dr. Lindsey and/or Mr. Beech made a deliberately chosen course of action not to continue prosecution of the application, then their actions or inactions with regard to the application is not unintentional. Therefore petitioner should further provide a statement from Dennis W. Beech[2], the attorney of record at the time of abandonment, or other supporting documentation by the responsible party, explaining why action was not timely taken to prevent the application from becoming abandoned.

Petitioner 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 petitioner must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Mr. Beech was counsel of record at the date of abandonment, Mr. Beech should explain why this application became abandoned while it was under their control and what efforts Mr. Beech made to further reply and with whom this matter was discussed. Copies of any correspondence relating to the filing, or to not file a further reply to the outstanding Office action are required from Mr. Beech, Dr. Lindsey and the responsible person(s) at Nano Teknologies, and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Nano Teknologies, and Mr. Beech's office, having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action.

The new Power of Attorney filed June 6, 2006 has not been accepted. The power of attorney was signed by Jack J. Illare, III as the managing partner/president of the assignee Nano Teknologies, Inc. USPTO records show that this application has been assigned to another company and Nano Teknologies is no longer the current assignee. The statement under 37 CFR 3.73(b) filed concurrently with the power of attorney fails to established ownership in the application as Nano Teknologies is no longer the current assignee. Accordingly, prior assignee Nano Teknologies does not have the authority to take action with respect to the application.

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.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450

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[2] Mr. Illare states he was informed on February 2005 that Dr. Lindsey passed away.

Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414.

Brian Hearn
Petitions Examiner
Office of Petitions

Cc: PETER GANJIAN
3146 NORTH VERDUGO ROAD
GLENDALE, CA 91208-1665

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P.O. Box 1450
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DENNIS W. BEECH (LAW OFFICE OF DENNIS W. BEECH)
P.O. BOX 519
MURRIETA CA 92564-0519

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JUN 06 2008

OFFICE OF PETITIONS

In re Application of :
Alfred A. Margaryan :
Application No. 10/054,328 : ON PETITION
Filed: January 21, 2002 :
Attorney Docket No. P000536-DES-TGG :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 23, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely reply to the Final Office action, mailed November 18, 2003, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on February 19, 2004. A Notice of Abandonment was mailed July 1, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(II)(C) and (D). This petition lacks item (3).

The Petition Decision mailed April 25, 2007 notes that item (3) was lacking from the petition filed June 6, 2006. That decision noted that the statement was signed by Ganjian who was not in a position to have first hand or direct knowledge of the facts and circumstances of the delay at issue. In the renewed petition petitioner agrees that Ganjian did not have such knowledge and was only executing the petition form. The decision also indicated the supplemental statement of unintentional delay signed by Mr. Illare was also not acceptable as the record indicated Mr. Illare was not in a position to have first hand or direct knowledge of the facts and circumstances of the delay at issue. The renewed petition attempts to establish that Mr. Illare did, in fact, have first hand knowledge of the facts of the delay.

The renewed petition states that Jack J. Illare, as the chairman of the board of directors of Nano Teknologies, the assignee at the time of abandonment, was directly responsible all patent related issues. The petition includes a copy of Illare's employment contract which set forth his duties to the company. The petitioner further states there were no third parties responsible for patent matters and thus Illare's statement of unintentional delay should be acceptable. This would appear to contradict the signed statement made by Illare which was included with the initial petition under 37 CFR 1.137(b) filed June 6, 2006. On page one of Illare's SUPPLEMENTAL STATEMENT ESTABLISHING UNINTENTIONAL DELAY, Illare states "I was a passive investor..." Page 2, lines 1-3 Illare states "Dr. Lindsay's responsibilities included the management of the company's day-to-day activities and the protection and maintenance of the company's assets including the company intellectual property." Illare's employment contract may have indicated he was responsible for patent related matters but it is clear from his statement that he was allowing Dr. Lindsay to do the actual patent related activities. Therefore Illare would have no first hand or direct knowledge of the facts and circumstances of the delay in filing a response to the final Office action. The renewed petition fairly well establishes that Illare had no knowledge of patent activities in regard to the instant application at the time of delay since Dr. Lindsay was allegedly hiding the fact that he was actually not responding to any inquires from the patent attorney, Mr. Beech.

Mr. Beech had some first hand knowledge of the circumstances surrounding the delay in filing the response to the final Office action but he was dependent on getting instructions from Dr. Lindsay. The petition indicates the application went abandoned since Mr. Beech received no instructions to respond to the final Office action. Mr. Beech has no direct knowledge of why Dr. Lindsay apparently decided to let the application go abandoned.

Petitioner must explain what efforts were made to further reply to the final Office action and further why no reply was filed. If no effort was made to further reply, then petitioner must explain why the delay in this application does not result from a deliberate course of action (or inaction). The record to date appears to indicate that Dr. Lindsay is the only person with first hand knowledge of the circumstances surrounding the lack of reply to the outstanding action.

The record also suggests that, for whatever reason, the failure to file a response to the outstanding Office action was intentional.

Petitioner may want to consider filing a petition under 37 CFR 1.137(a) for unavoidable abandonment of the application.

The renewed petition also states that the power of attorney in this application is to Peter Ganjian. The petition decision mailed April 25, 2007 indicated the new Power of Attorney filed June 6, 2006 was not proper since it was filed on behalf of the previous assignee. At the time the power of attorney was filed, assignment had transferred to AFO Research Inc. Any Power of Attorney request needs to be in the name of the actual assignee at the time of the request. Nano Teknologies, the indicated assignee was not the assignee at the time the June 6, 2006 Power of Attorney request was made. Despite Ganjian's statement to the contrary, he has not been properly give a Power of Attorney in the above-identified application. Should Ganjian desire to receive any future correspondence, an appropriate power of attorney must be submitted. While a courtesy copy of this decision is being mailed to Ganjian, all future correspondence will be mailed solely to the correspondence address of record until appropriate instructions are received.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ARLINGTON VA 22203

Paper No. 22

MAILED

OCT 28 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Alfred A. Margaryan :
Application No. 10/054,328 :
Filed: January 21, 2002 :
Attorney Docket No. RAR-5423-2 :

This is a decision on the petition filed June 30, 2009 requesting reconsideration of the Decision mailed April 1, 2009 denying the renewed petition under 37 CFR 1.137(a) filed February 17, 2009.

The petition is **DENIED**.

The decision by the Director was fully and finally treated in the decision of April 1, 2009. The decision clearly stated it was a final agency action within the meaning of 5 U.S.C. § 704 for purposes of petitioner's seeking judicial review, and further, that the USPTO would not further consider or reconsider this matter.

Petitioner's arguments regarding the previous decision are noted. While petitioner may not agree with the USPTO's actions in this case, full administrative review was provided for the matters under petition.

Charles A. Pearson
Director, Office of Petitions

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United States Patent and Trademark Office
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JAN 06 2009

OFFICE OF PETITIONS

PATENT LAW AGENCY, LLC
3146 NORTH VERDUGO ROAD
GLENDALE, CA 91208-1665

Paper No. 18

In re Application of :
Alfred A. Margaryan :
Application No. 10/054,328 : DECISION ON PETITION
Filed: January 21, 2002 :
Attorney Docket No. :

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a) filed October 22, 2008, to revive the above-identified application.

The petition under 37 CFR 1.137(a) 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 "Renewed Petition under 37 CFR 1.137(a) and (b)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed November 18, 2003, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 19, 2003. A Notice of Abandonment was mailed on July 1, 2004.

Petitioner filed a petition under 37 CFR 1.137(b) June 6, 2006, which was dismissed in a decision mailed April 25, 2007. A renewed petition under 37 CFR 1.137(b) was filed July 23, 2007 which was dismissed in a decision mailed June 6, 2008.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

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. § 151 and 37 CFR 1.137(a). See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

Petitioner takes the position that the failure to timely reply to the final Office action of November 18, 2003 was due to the actions or inactions of Dr. Lindsay. The petition goes into great length as to the fraudulent behavior of Lindsay and that this behavior was the basis of petitioner's failure to timely file a response. As set forth in the petition, Mr. Beech was the patent attorney prosecuting this application. Mr. Illare, as managing director of the assignee, was responsible for all final decisions as to any patent matters as set forth in the Employment Agreement of August 15, 2003. Lindsay acted in the capacity of "messenger" or "go-between" between Beech and Illare.

The petition implies that Beech and Illare never communicated directly with each other from the time of the August 15, 2003 Employment Agreement until after the abandonment of the application. This lack of communication between the patent attorney and the person responsible for all decisions regarding patent matters is central to determination as to whether the abandonment of this application was unavoidable.

Taking into consideration the facts set forth in the instant petition along with the statements made in the petition under 37 CFR 1.137(b) and the renewed petition under 37 CFR 1.137(b) the record raises many questions in regard to the activities of Beech and Illare.

The application record shows that Beech filed timely responses to the first Office action (12/19/02) and the second Office action (5/30/03). Did Beech confer with and get instructions from Lindsay and/or Illare before filing these responses?

Was Illare aware of the instant patent application at the time of Employment Agreement of August 15, 2003? If not, when did he become aware of this application? Also, if he was not aware of this application at the time of the Agreement, how would he be expected to make any decisions on the prosecution of this application if he was not aware of it?

At the time Beech received the final Office action, was he aware that Illare was responsible for all final decisions regarding any patent matters? If he was not, when did he become aware of Illare's responsibility in regard to patent matters? If he was aware, at the time of receipt of the final Office action, what efforts, if any, did he take to directly contact Illare when after several attempts he was getting no reply from Lindsay?

The second paragraph on page 10 of the instant petition states that Illare made numerous requests to Lindsay for information regarding the instant application. Specifically, when were these requests made? Did Illare make any attempt to contact Beech when it was clear that Lindsay was not responding to his requests?

Answers to the above questions in regard to the activities of Beech and Illare, from all persons having first hand knowledge are required.

The Power of Attorney and Correspondence Address request filed October 22, 2008 has been accepted.

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

By facsimile:
(571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

David Bucci
Petitions Examiner
Office of Petitions

Attachment: Notice of Acceptance of Power of Attorney

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DIW Mar-09

Peter Ganjian
Patent Law Agency, LLC
3146 North Verdugo Road
Glendale CA 91208-1665

Paper No. 20

MAILED

APR 0 1 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of
Alfred A. Margaryan
Application No. 10/054,328
Filed: January 21, 2002
For: FLUOROPHOSPHATE GLASS AND METHOD FOR MAKING THEREOF

This is a decision on the renewed petition under 37 CFR 1.137(a) filed February 17, 2009, to revive the above-identified application.

The petition is **DENIED**.[1]

BACKGROUND

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 18, 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 19, 2004. A Notice of Abandonment was mailed July 1, 2004.

On June 6, 2006 a petition under 37 CFR 1.137(b) was filed. The petition was dismissed on April 25, 2007.

On July 23, 2007 a renewed petition under 37 CFR 1.137(b) was filed. The petition was dismissed on June 6, 2008.

On October 22, 2008 a petition under 37 CFR 1.137(a) was filed. The petition was dismissed on January 6, 2009.

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[1] This decision may be viewed as a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. See MPEP 1002.02. The provisions of 37 CFR 1.137(d) do not apply.

On February 17, 2009 the instant renewed petition under 37 CFR 1.137(a) was filed.

STATUTE AND REGULATION

35 U.S.C. § 133 states that:

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the 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.

37 CFR 1.113 states in pertinent part that:

> (a) On the second or any subsequent examination or consideration the rejection or other action may be made final, whereupon applicant's or patent owner's response is limited to appeal in the case of rejection of any claim (§ 1.191), or to amendment as specified in § 1.116. Petition may be taken to the Commissioner in the case of objections or requirements not involved in the rejection of any claim (§ 1.181). Response to a final rejection or action must include cancellation of, or appeal from the rejection of, each rejected claim. If any claim stands allowed, the response to a final rejection or action must comply with any requirements or objections to form.

37 CFR 1.116 states that:

> (a) After final rejection or action (§ 1.113) amendments may be made canceling claims or complying with any requirement of form which has been made. Amendments presenting rejected claims in better form for consideration on appeal may be admitted. The admission of, or refusal to admit, any amendment after final rejection, and any proceedings relative thereto, shall not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135.
>
> (b) If amendments touching the merits of the application or patent under reexamination are presented after final rejection, or after appeal has been taken, or when such amendment might not otherwise be proper, they may be admitted upon a showing of good and sufficient reasons why they are necessary and were not earlier presented.

(c) No amendment can be made as a matter of right in appealed cases. After decision on appeal, amendments can only be made as provided in § 1.198, or to carry into effect a recommendation under § 1.196.

37 CFR 1.135 states in pertinent part:

(a)If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.

(b)Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

37 CFR 1.137(a) provides:

Unavoidable. Where the delay in reply was unavoidable, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to this paragraph. A grantable petition pursuant to this paragraph 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 abandoned for failure to prosecute, the
required reply may be met by the filing of a continuing application. In a Nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114.In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;

(2) The petition fee as set forth in § 1.17(l);

(3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this
paragraph was unavoidable; and

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d))required pursuant to paragraph (c) of this section.

OPINION

Petitioner requests reconsideration in that the delay in filing a timely response to the final Office action mailed November 18, 2003 was unavoidable due to "inappropriate, unethical, fraudulent, deceitful, and unlawful" conduct of Dr. Lindsey.

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable". 35 U.S.C. § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word unavoidable ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[3] Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay.[4]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[5]

---

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

[3] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

[4] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

[5] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

The record shows that there were three parties involved in the prosecution of the instant application at the time of abandonment. Dennis Beach (Beach) was the patent attorney, Jack Illare (Illare) was the Executive of the assignee, Nano Teknologies, LLC (Nano) and Dr. Lindsey (Lindsey), an employee of Nano who was apparently a go-between or liaison between Beech and Illare. Beech was getting instructions from Lindsay although Illare's employment contract specifically stated he was the responsible party for handling all patent matters. Petitioner states time and again that the application went abandoned due to Lindsey's misconduct. Petitioner states that Lindsey assured Illare that the patents were in order when in fact he was not responding to Beech's request for instructions on how to respond to the final Office action. Beech made numerous requests to Lindsey on how to respond to the final Office action. With no instructions forthcoming from Lindsey, Beech elected to take no further action in regard to the final Office action and thus the application became abandoned.

Where the applicant permits a third party to control the prosecution of an application, the third party's decision whether or not to file a reply to avoid abandonment is binding on the applicant. See Winkler, 221 F. at 552, 138 USPQ at 667. Where an applicant enters an agreement with a third party for the third party to take control of the prosecution of an application, the applicant will be considered to have given the third party the right and authority to prosecute the application to avoid abandonment (or not prosecute), unless, by the express terms of the contract between applicant and the third party, the third party is conducting the prosecution of the application for the applicant solely in a fiduciary capacity. See Futures Technology Ltd. V. Quigg, 684 F. Supp. 430, 431, 7 USPQ2d 1588, 1589 (E.D. Va. 1988). Otherwise, the applicant will be considered to have given the third party unbridled discretion to prosecute (or not prosecute) the application to avoid abandonment, and will be bound by the actions or inactions of such third party.

Petitioner argues that Lindsey was not a third party and that Illare's employment contract made it clear he was responsible for all patent matters. The record indicates that, irrespective of any employment agreement, Lindsey was left to make all patent decisions. Beech was totally dependent on Lindsey for instructions on how to proceed in prosecution of the instant application. Illare admits he depended on Lindsey in patent matters because he considered Lindsey very knowledgeable about patents and patent proceedings. The record establishes that Beech knew nothing of Illare's responsibilities in regard to patent matters and Illare did not even know who the patent attorney was for the instant application. Beech and Illare were totally insulated from each other. Illare admits in the renewed petition that he did not know any of the specifics in regard to the instant application to take appropriate action. The record fairly well establishes that Lindsey was in total control of the prosecution of the application, being the only one who was in a position to communicate instructions to Beech, the attorney of record. The record indicates Illare was not in a position to make any patent prosecution decisions in regard to the instant application. Illare depended on Lindsey's expertise, did not know exactly what patent application was subject to his control and apparently was content to not even know who the patent attorney was. The record indicates Illare effectively relinquished control of the

prosecution of the instant application to Lindsey and thus made him the third party. As such, petitioner is bound by the actions (or inactions) of Lindsey.

Furthermore, the record does not show that petitioner was reasonable and prudent in relying upon Lindsey to prosecute the application. Apparently, considerable acrimony existed between Illare and Lindsey with regard to Lindsey's alleged misappropriation of $400,000. Lindsey, by these actions, had shown that he was not a reliable and trustworthy employee. In fact, the record shows that Illare, despite knowing of Lindsey's actions, failed to properly supervise him. Given these facts and the attendant distrust and acrimony created by this situation, that Illare would believe statements of Lindsey regarding the prosecution of the application without some form of evidence or communication with/from either the USPTO or the patent attorney hired by Lindsey is not the care or diligence generally used and observed by prudent and careful men in relation to their most important business.

Under the circumstances, petitioner has not carried his burden of proof to show that the delay was unavoidable as required by statute and by regulations of the Patent and Trademark Office. Petitioner is reminded that a petition to revive an application under 37 CFR 1.137(a) cannot be granted where a petitioner has failed to meet his burden of establishing unavoidable delay within the meaning of 37 CFR 1.137(a) and 35 USC 133. Haines V. Quigg, 673 F. Supp. 314, 5 USPQ2 1130 (N.D. Ind. 1987).

CONCLUSION

For the reasons given above, the delay in this case has not been shown to have been unavoidable within the meaning of 35 USC 133 and 37 CFR 1.137(a).

Accordingly, the application will not be revived under the provisions of 35 U.S.C. 133 and 37 CFR 1.137(a), and the case remains abandoned.

This abandoned file is being forwarded to the Files Repository.

Telephone inquiries related to this decision should be directed to Carl Friedman at 571-272-6842.

Charles A. Pearson
Director, Office of Petitions

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Commissioner for Patents
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NIXON & VANDERHYE, P.C.
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ARLINGTON VA 22203

MAILED

MAR 22 2010

OFFICE OF PETITIONS

In re Application of :
Alfred A. Margaryan :
Application No. 10/054,328 : ON PETITION
Filed: January 21, 2002 :
Attorney Docket No. RAR-5423-2 :

This is a decision on the PETITION TO THE DIRECTOR UNDER 37 CFR 1.181(a)(3) which is being treated as a request to reconsider the petitions under 37 CFR 1.137(a) and (b), filed February 26, 2010, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.137(a) is **DISMISSED** as being moot.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed November 18, 2003, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 19, 2004. A Notice of Abandonment was mailed on July 1, 2004.

As to the petition under 37 CFR 1.137(b):

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a Request for Continued Examination; (2) the petition fee; and (3) a showing to the satisfaction of the Director that the entire delay was unintentional.

As to the petition under 37 CFR 1.137(a):

This petition is dismissed as moot in view of the grant of the 37 CFR 1.137(b) petition.

This application is being referred to Technology Center Art Unit 1755 for consideration of the Request for Continued Examination.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

Charles Pearson
Director
Office of Petitions

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Paper No. 012705

FEB 24 2005

Eric J. Sosenko
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

In re Application of:
Rich, et al.
Serial No.: 10/054,331
Filed: January 22, 2002
Attorney Docket No.: **10989-006**

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 December 22, 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 Eric J. Sosenko, on behalf of himself and all the attorneys/agents of record. There is at least thirty (30) days remaining between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period.

The request is **APPROVED**.

There are no attorneys of record at this time.

All future communications from the Office will be directed to the inventor, Colin Rich, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Hartman and Hartman, P.C.
15 North Franklin, Suite 250
Valparaiso, IN 46383

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MAIL

Paper No. 6

GREENBERG TRAURIG LLP
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SANTA MONICA CA 90404

JUN 1 3 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Hovsepian
Application No. 10/054,361
Attorney Docket No. 21454-15
Filed: January 17, 2002
For: SYSTEM AND METHOD OF MANAGING PRE-PAID ELECTRONIC ACCESS TO GOODS, SERVICES AND OTHER CONTENT

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR §1.102(d) – ACCELERATED EXAMINATION

This is a decision on the petition, filed April 2, 2003 under 37 CFR §1.102(d), in accordance with MPEP 708.02(VIII), requesting the Accelerated Examination of the above-identified application.

The petition is **DISMISSED**.

MPEP § 708.02, Section VIII, sets out the prerequisites to be met by applicant for a grantable petition for Accelerated Examination under 37 CFR §1.102(d), as follows:

> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.
> The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed.
> If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention.
> If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn.
> Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

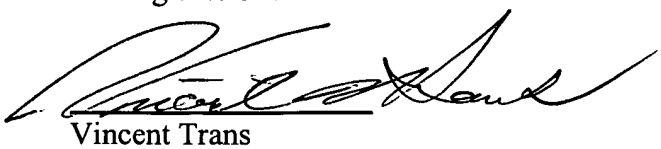
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petitioner submits one copy of each of the references most closely related to the subject matter encompassed by the claims and submits a statement that a search has been made and provides a list of the field of search by class and subclass. Therefore, the petition complies with items (C) and (D) of the items mentioned above. Applicant submits a fee under 37 CFR 1.17(i), instead of 37 CFR 1.17(h). However, since the fee is the same in both cases, it has been accepted has having been filed under 37 CFR 1.17(h). Therefore, the petition complies with item (A) mentioned above. However, the petition is deficient with respect to items (B) and (E) above:

(B) Applicant states that all the claims are directed to a single invention. Since there are several independent claims, each having a different scope, it will be up to the examiner to make such a determination. Applicant has made no provision for the possibility of a restriction requirement by the examiner. Applicant must provide the following statement as a prerequisite to a grant of special status: "If the Office determines that all claims presented are not obviously directed to a single invention, applicant will make an election without traverse and will follow established telephone restriction practice to make such an election if requested to do so."

(E) Applicant has failed to provide a detailed discussion that points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references. For each of the first two references cited, applicant uses less than two lines to briefly describe the field of endeavor of each reference, followed by a paraphrase of claim 1. This does not meet the requirements of 37 CFR 1.111(b) and (c).

Therefore, the Petition is **DISMISSED**. The application file will be forwarded to the Central Files of Technology Center 2100 to await examination in its proper turn based on its effective filing date. Petitioner is entitled to one opportunity to perfect the request in a renewed petition to make special. Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.



Vincent Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(703) 305-9750

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Paper No. 9

Lou Bovasso
GREENBERG TRAURIG, L.L.P.
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404

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FEB 17 2004

Technology Center 2100

In re Application of:
Benik HOVSEPIAN
Application No. 10/054,361
Filed: January 17, 2002
For: SYSTEM AND METHOD OF MANAGING PRE-PAID ELECTRONIC ACCESS TO GOODS SERVICES AND OTHER CONTENT

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition, filed on October 16, 2003, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submissions of October 16, 2003 meet all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

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Paper No. 8

Timothy W. Lohse
Gray Cary Ware Freidenrich LLP
2000 University Avenue
East Palo Alto, CA 94303

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OCT 0 9 2003

OFFICE OF PETITIONS

In re Application of :
Michael Worry et al. :
Application No. 10/054,364 : ON PETITION
Filed: November 13, 2001 :
Attorney Docket No. 2102881-991101 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 22, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice to File Missing Parts of Application (Notice) mailed February 15, 2002, which set a shortened statutory period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on April 16, 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

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Dennis C. Bremer
Honeywell International, Inc.
101 Columbia Road
P.O. Box 2245
Morristown NJ 07962-2245

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OCT 2 1 2003

OFFICE OF PETITIONS

In re Application of :
Sullivan, Rau, Adkins, and Hughes :
Application No.: 10/054,374 : DECISION ACCORDING
Filed: January 22, 2002 : RULE 47(a) STATUS
Attorney Docket No: Honeywell No. A11-26110US :
For: HIGH DENSITY 3-D INTEGRATED :
CIRCUIT PACKAGE :

This is in response to the petition under 37 CFR 1.47(a), filed January 22, 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.

The above-cited application was filed on January 22, 2002, and was accompanied by a declaration executed by only inventors Sullivan, Adkins, and Hughes. The petition notes that inventor Rau is deceased and petitioner has been unable to secure the signature of inventor Rau's heir, Chris Rau, or Mr. James Rau's legal representative, on the oath or declaration. Among the application papers was the instant petition requesting status be accorded under 37 CFR 1.47(a) and a statement authored by Dennis C. Bremer detailing the efforts made to secure the signature of Mr. Chris Rau, or Mr. James Rau's legal representative.

Petitioner has shown that Mr. Chris Rau has constructively refused to execute the oath or declaration on behalf of inventor Rau and that the legal representative, if any, is unavailable. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Chris Rau
3233 East Miraloma Avenue
Anaheim, CA 92806

In re Application of
Sullivan, Rau, Adkins, and Hughes :
Application No. 10/054,374 :
Filed: January 22, 2002 : LETTER
Attorney Docket Number: Honeywell No.A11-26110US :
For: High Density 3-D Integrated Circuit Package :

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OFFICE OF PETITIONS

Dear Mr. Rau:

Mr. James Rau (deceased) is 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 he will be designated therein as a joint inventor.

The legal heirs or legal representatives of Mr. Rau's estate 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, they may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from them. If the heir or legal representative of Mr. Rau cares to join the application on behalf of Mr. Rau, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (703) 305-0010. Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Dennis C. Bremer
Honeywell International, Inc.
101 Columbia Road
PO Box 2245
Morristown, NJ 07962-2245

Express Mail Label No. EK934964652US Deposited January 22, 2002

PATENT

jc997 U.S. PTO
10/054374
01/22/02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. A11-26110US)

In re Application of:	)	
	)	
Sullivan et al.	)	
	)	Group Art Unit: TBA
Serial No.: TBA	)	
	)	Examiner: TBA
Filed: January 22, 2002	)	
	)	
For: HIGH DENSITY 3-D INTEGRATED CIRCUIT PACKAGE	)	

Commissioner for Patents
Washington, D.C. 20231

PETITION UNDER 37 C.F.R. § 1.47(a)

Sir:

Because one of the inventors (James E. Rau) for the present application is deceased, and because attempts to secure the signature of the executor of the deceased's estate were not successful after diligent effort, Applicant submits this Petition Under 37 C.F.R. § 1.47(a) to make application on behalf of the deceased inventor.

As proof of diligence, Applicants submit the accompanying Declaration of Dennis C. Bremer, including its Exhibit A setting forth attempts to obtain the signature of the executor of the deceased's estate. Several attempts were made to contact the deceased's son, Chris Rau.

Chris Rau's last know address is 3233 East Miraloma Avenue, Anaheim, California 92806. James E. Rau's last known address is unknown, but is believed to be in California. A record from the Social Security Administration Death Index is attached for a James E. Rau having a social security number issued in California. While Applicants have been unable to confirm that this is the same "James E. Rau" as the named inventor in this case, the date of death falls within a time frame believed to be accurate.

The required petition fee of $130.00 under 37 C.F.R. §1.17(h) is enclosed herewith.

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FEB - 7 2005

KEVIN M. FARRELL
PIERCE ATWOOD
ONE NEW HAMPSHIRE AVENUE
SUITE 350
PORTSMOUTH NH 03801

In re Application of	:	
Minzhen Xu et al	:	
Serial No.: 10/054,387	:	SUSPENSION OF ACTION
Filed: January 22, 2002	:	
Attorney Docket No.: REH-2011	:	

This is in response to the petition under 37 CFR 1.103, filed January 18, 2005, to suspend prosecution of the above identified application for six months.

Applicants seek suspension of the prosecution on this application for a period of six months because of a applicants' intention to file a reissue application to correct an error identified in the instant application.

BACKGROUND

This application was filed January 22, 2002, and has been examined. Applicants have responded to the Office action mailed June 17, 2004.

DISCUSSION

37 CFR 1.103. Suspension of action.

(a) Suspension of action by the Office will be granted for good and sufficient cause and for a reasonable time specified upon petition by the applicant and, if such cause is not the fault of the Office, the payment of the fee set forth in 1.17(I). Action will not be suspended when a reply by applicant to an Office action is required.

M.P.E.P. 709 relates to suspension of action in an application. 37 CFR 1.103 permits the Office to suspend action upon petition by applicants for **good and sufficient cause** (emphasis added). Applicants state that they intend to file a reissue application on the patented parent of the instant application to correct an error pointed out during prosecution of this application. Applicants are concerned that the issue being prosecuted in two parallel proceedings may result in inconsistent determinations.

The intent to file a reissue application is not considered a good or sufficient reason for suspension of prosecution since there is no guarantee that a reissue application will be filed.

Further, each application must stand on its own merits and correction of errors relates only to the application in which the error occurs. It is entirely possible that similar errors occur in related pending or issued applications and that correction thereof is similar. Correction of an error discovered in a patent is also governed by different rules than correction of errors in an application and even when addressed by the same examiner may have different results.

DECISION

The petition to suspend action is DENIED. Applicants havve not presented a "A good and sufficient cause" warranting suspension of action by the examiner.

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 the general Offic facsimile number 571-273-8300.

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

Paper No. 11

COPY MAILED

OCT 29 2003

OFFICE OF PETITIONS

Farjami & Farjami
16148 Sand Canyon
Irvine, Ca 92618

In re Application of :
Ming-Kang Liu et al. :
Application No. 10/054,410 : ON PETITION
Filed: November 13, 2001 :
Attorney Docket No. ITEX 99001C1 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 16, 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 March 28, 2003, which set a shortened statutory period for reply of three months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on June 29, 2003.

The application file is being forwarded to Technology Center AU 2634 for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

COPY MAILED

JAN 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Karssemeijer et al.	:	ON PETITION
Application No. 10/054,437	:	
Filed: January 18, 2006	:	
Attorney Docket No. 5809.P002	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 1, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/054486

DATE : 8/10/05

Paper No.: —

TO SPE OF : ART UNIT 2173

SUBJECT : Request for Certificate of Correction on Patent No.: 6876369 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:

Changes necessary to correct printer error.

JOHN CABECA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

8/17/3
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. 15

KEITH FRANTZ
401 WEST STATE STREET
SUITE 200
ROCKFORD IL 61101

COPY MAILED

APR 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Philip M. Lungo	:	
Application No. 10/054,448	:	DECISION GRANTING PETITION
Filed: January 18, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. LUNGO-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 9, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of March 2, 2004, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

The application file is being forwarded to Technology Center Art Unit 3728.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARSHALL, GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO, IL 60606

COPY MAILED

FEB 15 2005

OFFICE OF PETITIONS

In re Application of :
Kern & Schwingle :
Application No. 10/054,454 : ON PETITION
Application Filing Date: November 13, 2001 :
Attorney Docket No. 29020/98022B

This is a decision on the petition under 37 CFR 1.59(b) filed January 6, 2005.

The petition is granted.

Petitioner requests that the document titled, "Amendment under 37 CFR 1.312" filed January 10, 2005, (certificate of mailing dated January 5, 2005) be expunged from the above-cited application as it was filed in error. It is noted that both an "Amendment under 37 CFR 1.312" was filed and a "Corrected Amendment under 37 CFR 1.312" were filed, but that the request for expungement is made only as to the document titled "Amendment under 37 CFR 1.312. A review of the application file history reveals that the "Amendment Under 37 CFR 1.312" is not a part of the original disclosure (which would prohibit expungement pursuant to 37 CFR 1.59(a)) and the expungement of document would not result in the application becoming abandoned. The expungement of the "Amendment under 37 CFR 1.312 is, therefore, appropriate.

Accordingly, the "Amendment under 37 CFR 1.312" will be expunged from the application file along with the supplemental documents titled "Amendment to Specification", "Listing of Claims", and "Remarks" all filed January 10, 2005.

Petitioner is advised that the documents cannot be returned as the original papers were scanned into an electronic file with the hard copies being destroyed thereafter.

The fee prescribed by 37 CFR 1.59(b) is $200.00 and will be charged to deposit account 13-2855. See 37 CFR 1.17(g).

Questions concerning this decision may be addressed to the undersigned at (571)272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/054,458	**28-May-02**	**Egberink, et al**	**2000.602 US**

Title: PHARMACEUTICAL FORMULATION OF GEPIRONE FOR ORAL ADMINSTRATION

Art Unit	Paper Number

Correspondence Address:
WILLIAM M. BLACKSTONE
AKZO NOBEL PATENT DEPARTMENT
405 State Street P.O. Box 318
Millsboro DE 19966

PATENT & TRADEMARK OFFICE
MAILED
JUL 29 2002
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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

In re:	Egberink et al.	:DECISION ON REQUEST
Serial No.:	10/054,458	:UNDER 37 CFR 5.25
Petition Filing date:	May 28, 2002	
Docket No.:	2000.602 US	

Title: PHARMACEUTICAL FORMULATION OF GEPIRONE FOR ORAL ADMINISTRATION

This is a decision on the petition filed September 5, 2001 for retroactive foreign filing license.

Decision: Denied

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)(2) (3)(iii) have not been met.

There appears to be no error as to why the material was first filed abroad.

Dr. Broekkamp states (Declaration, page 2) that "it is habitual practice in our department in the Netherlands, to prepare an application for patent, file the application and investigate in detail *later* which persons should be named as co-inventors."

It appears that it was merely reliance on European law and not lack of knowledge of the requirements of US laws that prevented a thorough investigation of inventorship.

Having knowledge of the US foreign filing requirements should have urged the investigation of inventorship prior to filing even though not required by European law. Not determining inventorship until later in the prosecution process is not within the meaning of "error" as provided in 37 CFR 5.25(a)(3)(iii).

Thus, in the absence of the declaration explaining why the material was filed abroad through error, the provisions of 37 CFR 5.25 have not been met.

Accordingly, the provisions of 37 CFR 5.25 not having been fully met, the petition is DENIED, and in the absence of any response within **60 days** of the mailing date of this letter, such denial will be made final and the final action under 35 U.S.C. 185 will be taken. Extensions of time may be had under 37 C.F.R. 1.136(a).

Yvonne R. Abbott
Patent Examiner
(703) 308-2866

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.
10/054,458	28-May-02	Egberink, et al	2000.602 US

Title: PHARMACEUTICAL FORMULATION OF GEPIRONE FOR ORAL ADMINSTRATION

Art Unit	Paper Number

Correspondence Address:
WILLIAM M. BLACKSTONE
AKZO NOBEL PATENT DEPARTMENT
405 State Street P.O. Box 318
Millsboro DE 19966

PATENT & TRADEMARK OFFICE
MAILED
JUL 25 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

In re:	Egberink et al.	:DECISION ON REQUEST
Serial No.:	10/054,458	:UNDER 37 CFR 5.25
Petition Filing date:	May 28, 2002	
Docket No.:	2000.602 US	

Title: PHARMACEUTICAL FORMULATION OF GEPIRONE FOR ORAL ADMINISTRATION

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)(2) (3)(iii) have not been met.

There appears to be no error as to why the material was first filed abroad.

Dr. Broekkamp states (Declaration, page 2) that "it is habitual practice in our department in the Netherlands, to prepare an application for patent, file the application and investigate in detail *later* which persons should be named as co-inventors."

It appears that it was merely reliance on European law and not lack of knowledge of the requirements of US laws that prevented a thorough investigation of inventorship.

Having knowledge of the US foreign filing requirements should have urged the investigation of inventorship prior to filing even though not required by European law. Not determining inventorship until later in the prosecution process is not within the meaning of "error" as provided in 37 CFR 5.25(a)(3)(iii).

Thus, in the absence of the declaration explaining why the material was filed abroad through error, the provisions of 37 CFR 5.25 have not been met.

There is no record with respect to 10/054,458, of any response to the initial denial mailed on July 29, 2002. Therefore, THIS ACTION IS MADE FINAL. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing of this action. Extensions of time may be had under 37 C.F.R. 1.136(a).

Yvonne R. Abbott
Patent Examiner
(703) 308-2866

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

SAWYER LAW GROUP LLP
P.O. Box 51418
Palo Alto, CA 94303

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APR 22 2004

OFFICE OF PETITIONS

In re Application of :
Seungyoon P. Song :
Application No. 10/054,471 : ON PETITION
Filed: January 18, 2002 :
Attorney Docket No. 1779CIP :

This is a decision on the petition under 37 CFR 1.137(b), filed April 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed March 27, 2003. Accordingly, this application became abandoned on June 28, 2003. A Notice of Abandonment was mailed on February 4, 2004.

The file is being forwarded to Technology Center 2800, for review of the amendment, filed April 12, 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

Fenwick & West, LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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AUG 2 2 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Michael C. Stewart et al. :
Application No. 10/054,477 :
Filed: January 18, 2002 :
Attorney Docket No. 80121-05730 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, June 15, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 16, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, $ 790.00 filing fee, and submission as required by 37 CFR 1.114,(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) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3739 for appropriate action by the Examiner in the normal course of business on the amendment received May 4, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

Stephens, Deborah

From: Gelin, Jean
Sent: Thursday, May 29, 2008 2:59 PM
To: Stephens, Deborah
Subject: RE: Certificate of Correction Request for Application 10054485 now U.S. Patent 6959202

Yes, the Certificate of correction should be approved.
Jean

From: Stephens, Deborah
Sent: Thursday, May 29, 2008 2:29 PM
To: Gelin, Jean
Cc: Evans, Elisha; Diggs, Mary; McAskill, Mary Louise
Subject: Certificate of Correction Request for Application 10054485 now U.S. Patent 6959202
Importance: High

Ms. Gelin

Would you be able to review and consider the Certificate of Correction request dated March 18, 2008 and let us know if it should be approved?

I have been contacted by Brad Wright, attorney (202-824-3160), who is anxiously awaiting the issuance of the Certificate of Correction.

Thank you for your assistance.
Debbie Stephens
Director, Office of Data Management
703-308-9250 ext.101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BAXTER HEALTHCARE CORPORATION
1 BAXTER PARKWAY
DF2-2E
DEERFIELD, IL 60015

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AUG 1 0 2006
OFFICE OF PETITIONS

In re Application of :
Brian Lauman, et. al. :
Application No. 10/054,487 : ON PETITION
Filed: January 22, 2002 :
Attorney Docket No. 112713-147 :

This is a decision on the petition under 37 CFR 1.137(b), filed on May 9, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed December 23, 2005. A Notice of Abandonment was mailed on May 1, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Publications to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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

ARTER & HADDEN, LLP
1100 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1475

COPY MAILED

SEP 2 5 2002

OFFICE OF PETITIONS

In re Application of :
Michael Yeung, Brad Emerson, :
Peter Tran and Louis Ormond : DECISION REFUSING STATUS
Application No. 10/054,513 : UNDER 37 C.F.R. §1.47(a)
Filed: November 13, 2001 :
Attorney Docket No. 66329/07257 :
Title: METHOD AND SYSTEM FOR :
WIRELESS INTERFACING OF ELECTRONIC :
DEVICES :

This is in response to the "Response to Notice of Missing Parts," filed August 21, 2002, which is properly treated as a Petition under § 1.47 to accept a declaration without the signatures of all inventors.

The petition is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 13, 2001, without an executed oath or declaration. Michael Yeung, Brad Emerson, Peter Tran and Louis Ormond were named as joint inventors. Accordingly, on February 21, 2002, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply with extensions of time obtainable under § 1.136(a).

In response, applicants filed a declaration executed by joint inventors Yeung, Tran and Ormond on behalf of themselves and on behalf of nonsigning joint inventor Emerson; the surcharge under § 1.16(e); and the instant petition under § 1.47(a)(and fee). This response was made timely by an accompanying petition for a four-month extension of time for response (and fee). Applicants assert that status under § 1.47(a) is proper because inventor Emerson cannot be found or reached to join in the application. In support thereof, petitioners submitted a copy of a letter sent to inventor Emerson via certified mail return receipt requested.

The petition included neither a copy of the certified mail receipt nor a statement of facts by a person with firsthand knowledge, setting forth the facts relied on to conclude that inventor Emerson could not be found or reached, after diligent effort, to join in the application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (1).

Rule 47 applicants have not provided adequate proof that a diligent effort has been made to reach inventor Emerson. The petition does not include a statement of facts by a person with firsthand knowledge, setting forth the facts relied on to conclude that diligent efforts were made to reach or find inventor Emerson. Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as Internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts.

The proof submitted, a letter, is not adequate. The letter submitted shows that the effort to locate inventor Emerson included mailing a letter to inventor Emerson at his last known address, requesting that he sign the declaration. Petitioners do not include a copy of a certified mail return receipt showing that the letter went "unclaimed." However, given their argument, it is presumed that this is their contention. Yet, being unsuccessful in mailing the application papers to inventor Emerson at his last known address, there is no indication that Rule 47 applicants attempted to determine inventor Emerson's forwarding address, and to send the application papers to that address for consideration by inventor Emerson. See MPEP 409.03(d). If attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet continue to fail, then applicants will have provided the necessary proof required under 37 CFR 1.47 that the inventor cannot be reached or found. Applicant should also submit documentary evidence such as the results of any E-mail or Internet search.

Petitioners are further advised that if inventor Emerson is located but refuses to join in the application, status under § 1.47 for refusal requires a showing that a *bona fide* attempt

was made to present all of the application papers (specification, claims, drawings and oath or declaration) to the nonsigning inventor for signature. The letter submitted on instant petition would not be adequate for such purpose as it only supports a conclusion that applicants attempted to present the declaration and assignment to inventor Emerson.

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. 7

ARTER & HADDEN, LLP
1100 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1475

COPY MAILED

OCT 23 2002

OFFICE OF PETITIONS

In re Application of
Michael Yeung, Brad Emerson,
Peter Tran and Louis Ormond
Application No. 10/054,513
Filed: November 13, 2001
Attorney Docket No. 66329/07257
Title: METHOD AND SYSTEM FOR WIRELESS INTERFACING OF ELECTRONIC DEVICES

DECISION ACCORDING STATUS
UNDER 37 C.F.R. §1.47(a)

This is in response to the "Request for Reconsideration of Petition under 37 CFR 1.47(a)," filed October 17, 2002.

The petition is **GRANTED**.

The above-identified application was filed on November 13, 2001, without an executed oath or declaration. Michael Yeung, Brad Emerson, Peter Tran and Louis Ormond were named as joint inventors. In response to a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)" mailed February 21, 2002, applicants timely filed the initial petition under § 1.47(a), along with a declaration executed by joint inventors Yeung, Tran and Ormond on behalf of themselves and on behalf of nonsigning joint inventor Emerson. However, this petition was dismissed for failure to show that inventor Emerson could not be found or reached, after diligent effort, to join in the application.

On instant request for reconsideration, applicants submitted the following additional evidence to show the unavailability of nonsigning inventor Emerson: the cover letter transmitting the declaration and assignment to inventor Emerson at his last known address; the certified mail return receipt for the letter; the envelope showing that the certified mail went unclaimed and that the USPS provided no forwarding address; the search page for www.switchboard.com; and a statement of facts of coinventor Yeung detailing the exact facts relied upon to establish the diligent efforts made to secure execution of the declaration by inventor Emerson.

This additional evidence has been considered and found sufficient to show diligent efforts to reach inventor Emerson to join in the

application. However, petitioner is advised in this regard that the internet search page was not persuasive evidence as it did not evidence the results of any search. Nonetheless, a search by the Office for inventor Emerson on www.lexis.com at source EZCombined Person Locator Nationwide yielded results consistent with a conclusion that to attempt to reach inventor Emerson at the last known address identified by petitioner was reasonable. (It was unclear whether other addresses associated with a Brad Emerson were prior or subsequent addresses, if correct). Furthermore, consistent with a conclusion that the last known address was as identified by applicants, the mailing to inventor Emerson was designated by USPS as "unclaimed"not "Return to Sender: Address Unknown," and no "forwarding address" was noted.

The declaration filed August 21, 2002; and the petition have been reviewed and are now found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

BRAD EMERSON
1765 SANTA ANNA AVENUE
APARTMENT V-103
COSTA MESA, CA 92667

COPY MAILED

OCT 2 3 2002

OFFICE OF PETITIONS

In re Application of :
Michael Yeung, Brad Emerson, :
Peter Tran and Louis Ormond : LETTER
Application No. 10/054,513 :
Filed: November 13, 2001 :
Attorney Docket No. 66329/07257 :
Title: METHOD AND SYSTEM FOR :
WIRELESS INTERFACING OF ELECTRONIC :
DEVICES

Dear Mr. Emerson:

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 Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ARTER & HADDEN, LLP
1100 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1475

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P.O. Box 1450
Alexandria, VA 22313-1450
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TUCKER ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND OH 44115-1414

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NOV 30 2007

OFFICE OF PETITIONS

In re Application of :
Yeung, et al. :
Application No. 10/054,513 : ON PETITION
Filed: November 13, 2001 :
Attorney Docket No. 66329/20690 :

This is a decision on the petition filed on August 27, 2007, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed on May 31, 2006. This Office action set a shortened statutory period for reply of three months. No proper reply having been received, the application became abandoned on September 1, 2006. The Office mailed a Notice of Abandonment on January 12, 2007.

With the instant petition, applicants paid the petition fee, submitted the required reply in the form of an RCE, and made the proper statement of unintentional delay.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1020.00 extension of time fee submitted with the petition on August 27, 2007 was subsequent to the maximum period obtainable for reply (November 30, 2006), this fee has been refunded to petitioner's Deposit Account 50-0902.

The matter is being forwarded to Group Art Unit 2616 for consideration of the RCE, filed August 27, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Mark G. Bocchetti
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

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DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of
Stelter, et al.
Application No. 10/054,514
Filed: November 13, 2001
Attorney Docket No. MBHB00-1150

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed August 24, 2004 (certificate of mailing date August 20, 2004), to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit the issue fee and publication fee in response to the Notice of Allowance, mailed April 9, 2001, which set a statutory period for reply of three (3) months. While petitioners timely submitted a Part B - Fee Transmittal on April 16, 2004 (certificate of mailing date of April 13, 2004), petitioners did not include deposit account information. Therefore, the above-identified application became abandoned on July 10, 2001. A Notice of Abandonment was mailed on August 9, 2004.

Petitioner has shown that the delay in paying the issue fee and publication fee was unavoidable. The petition is **GRANTED**.

The application file will be forwarded to Publications Branch for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE W. Fahmy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/054,528

Paper No.: _____

DATE : 8/26/05

TO SPE OF : ART UNIT 2814

SUBJECT : Request for Certificate of Correction on Patent No.: 6917114

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

_____ 2814
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

UR
Paper NO. 3

Mailed SEP - 9 2002

In re Application of :
Keith G. Copeland et al. :
Serial Number: 10/054,535 : DECISION ON
Filed: January 22, 2002 : PETITION UNDER
For: AUTOMATED BIOLOGICAL REACTION
APPARATUS : M.P.E.P. 708.02, II

This is a decision on the Petition to Make Special because of Actual Infringement (37 C.F.R. 1.102 and MPEP 708.02) filed January 22, 2002, along with the requisite fee (paid), in the above-noted application. The petition with accompanying statement, meet the requirements of Section 708.02 (II) of the MPEP.

If the examiner finds any interfering application for the same subject matter, the examiner should consider such application simultaneously with this case and should state in the official letter of such application that the examiner is taking it out of its turn because of a possible interference.

Should an appeal be taken in this case or should this case become involved in an interference, consideration of the appeal and the interference will be expedited by Patent and Trademark Office Officials concerned, contingent likewise upon diligent prosecution by applicant.

After allowance, this case will be given priority for printing. See MPEP 1309.

The petition is GRANTED.

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

McDonnell Boehnen Hulbert & Berghoff
300 South Wacker Drive, Suite 3200
Chicago, IL 60606

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SPRINT COMMUNICATIONS COMPANY L.P.
6391 SPRINT PARKWAY
MAILSTOP: KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Benjamin J. Parker	: DECISION ON REQUEST FOR
Patent Number	: 7636790	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/054,539	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/25/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2458** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

IPSOLON LLP
805 SW BROADWAY, #2740
PORTLAND OR 97205

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JUL 17 2002

OFFICE OF PETITIONS

In re Application of
Liang, et al.
Application No. 10/054,543
Filed: January 18, 2002
Attorney Docket No. 1085-041-PWH

DECISION GRANTING
PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed May 13, 2002 (certificate of mailing date May 2, 2002), requesting, in effect, withdrawal of the April 2, 2002 Notice of Omitted Item(s) in a Nonprovisional Application (Notice).

The application was filed on January 29, 2002. On April 2, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that drawing figure 9 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 9 be accorded a filing date of January 18, 2002 on the basis that 8 sheets of drawing figures, including drawing figure 9, were received in the Patent and Trademark Office (PTO) on January 18, 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 18, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 8 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 8 sheets of drawing figures, including drawing figure 9, were filed on January 18, 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 18, 2002, using the copy of drawing figure 9 submitted with the instant petition. Office records will be corrected to show that 8 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SMITH-HILL AND BEDELL, P.C.
16100 NW CORNELL ROAD, SUITE 220
BEAVERTON OR 97006

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OCT 24 2006

OFFICE OF PETITIONS

In re Application of :

CHANG, et al. :
Application No. 10/054,546 : DECISION ON PETITION
Filed: January 18, 2002 : TO WITHDRAW
Attorney Docket No. FLEX 2405 : 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 16, 2006 and subsequently filed October 03, 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 John Smith-Hill on behalf of all attorneys 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 William H. Chang at the address indicated below until otherwise properly notified by the applicant.

A Review of the file discloses that a non-final Office action was mailed on June 01, 2006, which set forth a three month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) are available. To date, there is no indication that a reply to the Office action of June 01, 2006 has been received.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: William H. Chang
FLEXIWORLD TECHNOLOGIES, INC.
PMB 264
3439 N.E. Sandy Blvd.
Portland, OR 97232-1959

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OFFICE OF PETITIONS

SMITH-HILL AND BEDELL, P.C.
16100 NW CORNELL ROAD, SUITE 220
BEAVERTON OR 97006

In re Application of
William Ho **CHANG**, et al.
Application No. 10/054,547
Filed: January 18, 2002
Attorney Docket No. FLEX 2233

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 10, 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 John Smith-Hill on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor William H. Chang at the address indicated below.

There is an outstanding Office action mailed August 24, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **WILLIAM H. CHANG**
FLEXIWORLD TECHNOLOGIES, INC.
PMB 267
3439 N.E. SANDY BOULEVARD
PORTLAND, OR 97232-1959

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APR 20 2007

OFFICE OF PETITIONS

Smith-Hill and Bedell, P.C.
16100 NW Cornell Road, Suite 220
Beaverton, OR 97006

In re Application of :

William Ho Chang et al. :
Application No. 10/054,548 : DECISION ON PETITION
Filed: January 18, 2002 : TO WITHDRAW
Attorney Docket No. FLEX 2402 : 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 10, 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 John Smith-Hill 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 William Ho Chang at the address indicated below.

The application became abandoned for failure to timely respond to the Office action mailed August 24, 2006.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

J. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **William Ho Chang**
16900 S.E. 26th Drive, #94
Vancouver, WA 98683

cc: **William Ho Chang**
c/o Flexiworld Technologies, Inc.
PMB 267
3439 N.E. Sandy Blvd.
Portland, OR 97232-1959

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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
10/054,548	01/18/2002	William Ho Chang	FLEX 2402

CONFIRMATION NO. 7172

OC000000023434002

OC000000023434002

7812
SMITH-HILL AND BEDELL, P.C.
16100 NW CORNELL ROAD, SUITE 220
BEAVERTON, OR 97006

Date Mailed: 04/18/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/10/2006.

- 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.

Jerri S. Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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OIPE
APR 30 2007
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16100 NW Cornell Road, Suite 220
Beaverton, OR 97006

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APR 20 2007

OFFICE OF PETITIONS

In re Application of	:	
William Ho Chang et al.	:	
Application No. 10/054,548	:	DECISION ON PETITION
Filed: January 18, 2002	:	TO WITHDRAW
Attorney Docket No. FLEX 2402	:	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 10, 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 John Smith-Hill 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 William Ho Chang at the address indicated below.

The application became abandoned for failure to timely respond to the Office action mailed August 24, 2006.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **William Ho Chang**
16900 S.E. 26th Drive, #94
Vancouver, WA 98683

cc: **William Ho Chang**
c/o Flexiworld Technologies, Inc.
PMB 267
3439 N.E. Sandy Blvd.
Portland, OR 97232-1959

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16100 NW CORNELL ROAD, SUITE 220
BEAVERTON, OR 97006

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MAY 27 2008

In re Application of	:	
CHANG, William Ho et al.	:	
Application No. 10/054,549	:	DECISION ON PETITION
Filed: January 18, 2002	:	TO WITHDRAW
Attorney Docket No. **FLEX 2401**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 18, 2006 and resubmitted September 28, 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 John Smith-Hill on behalf of all attorneys of record who are associated with customer No. 07812. All attorneys/agents associated 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 William H. Chang at the address indicated below.

The application became abandoned for failure to timely respond to the Office action mailed August 09, 2006.

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: **MR. WILLIAM H. CHANG**
FLEXIWORLD TECHNOLOGIES, INC.
PMB 267
3439 N. E. SANDY BLVD.
PORTLAND, OREGON 97232-1959

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THOMAS F. LENIHAN
TEKTRONIX, INC.
P O BOX 500, M/S 60-LAW
BEAVERTON, OR 97077-0001

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JUN 2 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Michael S. Hagen	:	
Application No. 10/054,557	:	DECISION GRANTING PETITION
Filed: January 18, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 6598-US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 4, 2005.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the $1,400 issue fee and $300 publication fee; (2) the petition fee $1,500; and (3) an adequate statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Harrington & Smith LLP
4 Research Drive
Shelton CT 06484-6212

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of
Vilhonen et al.
Application No. 10/054,568
Filed: January 22, 2002
Attorney Docket No. *

: DECISION REGARDING PTA LETTER

This decision is in response to applicants' "LETTER REGARDING PATENT TERM ADJUSTMENT" filed December 10, 2004. Applicants assert that the PTA adjustment appears to be longer than appropriate. The Office thanks applicant for their good faith and candor in bringing this matter to the attention of the Office.

Applicants' letter regarding PTA is **DISMISSED**. Applicants are given thirty days to reply to this letter. No extensions of time under 37 CFR 1.136 will be granted.

Applicants have submitted a letter suggesting that the PTA "appears on its face to be larger than appropriate." Applicants did not provide information as to why the determination was greater than it should have been.

A review of the PTA history verifies that the PAIR determination is accurate. The Office failed to initially act on the application within fourteen months of the filing of the application. See 37 CFR 1.702(a)(1). The delay was for a period of five hundred and six (506) days.[1] There were no further delays by the Office nor were there any delays by applicant occurring prior to the mail date of the notice of allowance.[2]

After the mailing of this decision, the Office will forward this application to the Office of Patent Publication for a prompt issuance of the application. Any PTA delays by the Office in issuance of the patent will be reflected in the issue notification letter.

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[1]The delay began on March 23, 2003(day after 14 months from filing date) until the mailing of the notice of allowance on October 8, 2004.

[2]The Office notes that applicants submitted a 312 amendment after the mail date of the notice of allowance. However, 312 amendments will not be considered a failure to engage in reasonable efforts to conclude prosecution of the application until issuance of the patent and will be reflected in the issue notification letter mailed to applicants approximately three weeks prior to the issuance of the patent.

Because applicants are advising the Office that too much PTA has accrued, the Office considers such advisement as a good faith and candor letter. Accordingly, no fee is assessed with this letter.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, Office of Patent Legal Administration at 571-272-7757.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/21/2010

Applicant	: Takahiro Unno	: DECISION ON REQUEST FOR
Patent Number	: 7606703	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/054,604	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/13/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1068** 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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 05/17/2010

Applicant : Takahiro Unno
Patent Number : 7606703
Issue Date : 10/20/2009
Application No: 10/054,604
Filed : 11/13/2001

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1107** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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MINTZ LEVIN COHN FERRIS
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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MAY 12 2004

OFFICE OF PETITIONS

In re Application of :
Beat J. Arnet et al :
Application No. 10/054,606 : NOTICE
Filed: January 18, 2002 :
Attorney Docket No. 03524-512 :

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 Publishing Division to be processed into a patent.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,679,049	2004-01-20	10/054,644	2002-01-22	EAC-012

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	/dpg/	Date (YYYY-MM-DD)	2008-03-11
Name	David P. Gordon	Registration Number	29996

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. 6679049
Issue Date: January 20,2004
Application No. 10054644
Filed: January 22,2002
Attorney Docket No. EAC-012

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 11,2008 ,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 11,2008 . 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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P.O. Box 1450
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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

MAILED

JAN 29 2009

OFFICE OF PETITIONS

In re Application of :
Michael Fonseca, et. al. :
Application No. 10/054,671 : ON PETITION
Filed: January 22, 2002 :
Attorney Docket No. 50615-316472 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 26, 2008, to revive the above-identified application.

The application became abandoned for failure to file a response to the final Office action mailed on March 13, 2008. A Notice of Abandonment was mailed September 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405 and the submission under 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3735 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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OFFICE OF PETITIONS

In re Application of
Gerald Crabtree et al
Application No. 10/054,712
Filed: November 13, 2001
Attorney Docket No. APBI-P08-317

: 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 February 19, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed March 9, 2003.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-

filed applications Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

[1] *Note* 37 CFR 1.121

By hand: Customer Window located at:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8859.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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BOSTON, MA 02110-2624

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OFFICE OF PETITIONS

In re Application of
Gerald Crabtree et al
Application No. 10/054,712
Filed: November 13, 2001
Attorney Docket No. APBI-P08-317

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed July 8, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant pending application was filed on November 13, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

The examiner of Technology Center Art Unit 1636 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

#6

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

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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MAY 23 2002

OFFICE OF PETITIONS

In re Application of	:	
Buehl et al.	:	
Application No. 10/054,719	:	DECISION GRANTING
Filed: January 18, 2002	:	PETITION
Attorney Docket No. 43314/236950	:	

This is a decision on the petition filed March 6, 2002, to accord the above-identified application a filing date of January 18, 2002.

On January 18, 2002, the application was filed.

On February 27, 2002, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

In response, the present petition was filed alleging that four sheets of drawings were deposited on January 18, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "No. of Drawings Sheets 4" on January 18, 2002.[1] Petitioner has also submitted a copy of the missing documentation- 4 sheets of drawings.

Upon review of the record, the drawings, deposited on January 18, 2002, have not been located. However, the evidence is convincing that the application papers deposited on January 18, 2002 included four sheets of drawings, and that the drawings were subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of January 18, 2002.

In view of the above, the petition is **granted**. The copy of the drawings submitted with the petition will be used for examination purposes.

No petition fee is required and none has been charged. However, $130 has been charged to the deposit account since the filing fee was paid on a date after the filing date assigned to the application.

The Notice mailed February 27, 2002, was sent in error and is hereby vacated to the extent that it indicated drawings were missing and that a filing date had not been assigned.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 18, 2002, using the application papers filed on January 18, 2002 and the copy of four sheets of drawings filed on March 6, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Joseph G. Buehl	: DECISION ON REQUEST FOR
Patent Number	: 7620574	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/054,719	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/18/2002	: 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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Fitch, Even, Tabin & Flannery
Suite 1600
120 S. LaSalle St.
Chicago, IL 60603

Mail Date: 04/21/2010

Applicant	: Roberto Fagnani	: DECISION ON REQUEST FOR
Patent Number	: 7638464	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/054,728	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/25/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1033** 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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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 6

BLAKELY SOKOLOFF TAYLOR & ZAFMAN/PDC
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025

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JUN 1 2 2003

OFFICE OF PETITIONS

In re Application of :
Brown Jr., et al. :
Application No. 10/054,771 : ON PETITION
Filed: January 22, 2002 :
Attorney Docket No. 03399P074 :

This is a decision on the petition to revive under 37 CFR 1.137(f), filed May 15, 2003, which is being treated as a petition under 37 CFR 1.137(b).

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on January 22, 2002 with a nonpublication request and certification under 35 U.S.C. 122(b)(2)(B)(I). On November 25, 2002, applicant filed a Request to Rescind Previous Nonpublication Request.

With the instant petition, applicant states that the application was foreign filed on December 31, 2002.

As the Request to Rescind Previous Nonpublication Request was filed before the foreign filing, the application will be treated as if the nonpublication request was never made.[1]

As requested, the Request and Certification Under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request indicating a projected publication date of September 18, 2003 accompanies this decision.

The petition fee of $1,300 has been refunded to Deposit Account No. 02-2666.

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[1] See "Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2)(B)(ii)-(iv)", available at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm.

The application file is being forwarded to Technology Center 2100 for processing in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Notice Regarding Rescission of Nonpublication Request
(1 page)

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)
6619464	2003-09-16	10054778	2002-01-23	RAP04P622A 1900P74370US01

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Daniel J. Staudt/	Date (YYYY-MM-DD)	2008-01-09
Name	Daniel J. Staudt	Registration Number	34733

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6619464
Issue Date: September 16,2003
Application No. 10054778
Filed: January 23,2002
Attorney Docket No. RAP04 P-622A

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed January 9,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 9,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 10

ANDREW S. McCONNELL
BOYLE, FREDRICKSON, NEWHOLM, STEIN & GRATZ, S.C.
250 E WISCONSIN AVENUE, SUITE 1030
MILWAUKEE WI 53202

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MAY 1 5 2003

OFFICE OF PETITIONS

In re Application of	:	
Clint D. Kolda et al	:	
Application No. 10/054,781	:	DECISION GRANTING PETITION
Filed: January 23, 2002	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. 376.171	:	

This is a decision on the petition, filed May 6, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on December 18, 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 21, 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 3764 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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MAIL

JAN 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Michael G. Petit
P.O. Box 91929
Santa Barbara, CA 93190-1929

In re application of:
Omkarnath K. Gupta et al.
Application No. 10/054,804
Filed: November 19, 2001
For: CASE FOR CELLULAR PHONE

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record and change of address filed on November 23, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

Michael G. Petit have been withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Jerry Bessa
Genesis Electronics
1510 Anchors Way
Ventura, CA 93001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MICHAEL S GZYBOWSKI
BUTZEL LONG
350 SOUTH MAIN ST
SUITE 300
ANN ARBOR MI 48104

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OFFICE OF PETITIONS

In re Application of :
Onishi, et al. :
Application No. 10/054,825 : ON PETITION
Filed: January 23, 2003 :
Attorney Docket No. 121027-091 :

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.137(a) and 1.181", filed May 3, 2006, which is being treated as a petition to revive the above application under 37 CFR 1.137(a) in view of petitioner's authorization to charge the petition fee to his deposit account.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled, "Renewed Petition under 37 CFR 1.137(a)." There is no fee for a renewed petition.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed December 13, 2004, which set a shortened statutory period for reply of three months. On March 10, 2005, applicants filed a response. However, by Advisory Action mailed March 29, 2005, the examiner informed applicant that applicant's reply failed to place the application in condition for allowance. Applicants filed an additional response on April 12, 2005, made timely by obtaining a one month extension of time. Once again, by Advisory Action mailed January 30, 2006, the Examiner informed applicants that the response did not place the application in condition for allowance. Accordingly, the application became abandoned on April 14, 2005. A Notice of Abandonment was mailed on March 16, 2006.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy requirement (3).

As to requirement (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 MPEP, however, does not constitute "unavoidable" delay.[2]

37 CFR 1.135(b), the regulation relevant to the abandonment of this application, provides that (A) the admission of, or refusal to admit, any amendment after final rejection, or any related proceedings, will not operate to save the application from abandonment; and (B) the admission of, or refusal to admit, any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment. **It is the applicant's responsibility to take the necessary action in an application under a final Office action to provide a complete reply under 37 CFR 1.113.** "A delay is not 'unavoidable' when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action."[3]

Applicant should have ensured that the amendment had been entered or applicant should have filed either a Request for Continued Examination (RCE) under 37 CFR 1.114, continuing application under 37 CFR 1.53(b), or Notice of Appeal under 37 CFR 1.191. The last day an RCE, continuing application, or Notice of Appeal could have been filed, with the maximum allowed three month extension of time, would have been June 13, 2005. Petitioner has not demonstrated why his failure to file one of these three replies was "unavoidable".

The $500 petition fee for the filing of the 37 CFR 1.137(a) petition has been charged to Deposit Account No. 12-2136, as authorized.

---

[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] MPEP 711.03(c)(III)(C)(2).

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, applicant is not precluded from obtaining relief by filing a request for reconsideration 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). A 37 CFR 1.137(b) petition form is enclosed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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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BUTZEL LONG
350 SOUTH MAIN ST
SUITE 300
ANN ARBOR MI 48104

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JUN 22 2006

OFFICE OF PETITIONS

In re Application of	:	
Onishi, et al.	:	
Application No. 10/054,825	:	ON PETITION
Filed: January 23, 2003	:	
Attorney Docket No. 121027-091	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 9, 2006.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed December 13, 2004, which set a shortened statutory period for reply of three months. On March 10, 2005, applicants filed a response. However, by Advisory Action mailed March 29, 2005, the examiner informed applicant that applicant's reply failed to place the application in condition for allowance. Applicants filed an additional response on April 12, 2005, made timely by obtaining a one month extension of time. Once again, by Advisory Action mailed January 30, 2006, the Examiner informed applicants that the response did not place the application in condition for allowance. Accordingly, the application became abandoned on April 14, 2005. A Notice of Abandonment was mailed on March 16, 2006. Applicants filed a petition to revive under 37 CFR 1.137(a) on May 3, 2006. However, the petition was dismissed in a decision mailed on May 26, 2006.

With the instant petition, petitioner paid the petition fee and made the proper statement of unintentional delay. The required reply in the form of an RCE was previously filed on May 3, 2006.

The matter is being forwarded to Group Art Unit 3761 for consideration of the RCE filed May 3, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAY - 7 2004

wk

In re Application of	:	
Andrea Brasch; Klaus Diblitz	:	NOTICE OF WITHDRAWAL
Serial No. 10/054,830	:	FROM ISSUE
Filed: January 23, 2002	:	UNDER 37 CFR 1.313(a)
For: PROCESS FOR THE MANUFACTURE	:	
OF DISPERSIBLE ALUMINO-SILICATES	:	

The above-identified application is withdrawn from issue before payment of the issue fee. See 37 CFR 1.313 (a). Applicants have petitioned to have the above entitled application withdrawn from issuance in connection with a Petition to be filed requesting that Applicants' claim for priority be acknowledged and granted.

The above-identified application is hereby withdrawn from issue.

Applicants have authorized the charging of the petition fee to Deposit Account no. 02-4345.

Telephone inquiries should be directed to Thomas Dunn at (571) 272-1171.

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

C. James Bushman
BROWNING BUSHMAN
5718 Westheimer, Suite 1800
Houston, TX 77057

cc: Allowed Files—Pk3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY - 7 2004

wk

In re Application of	:	
Andrea Brasch; Klaus Diblitz	:	NOTICE OF WITHDRAWAL
Serial No. 10/054,830	:	FROM ISSUE
Filed: January 23, 2002	:	UNDER 37 CFR 1.313(a)
For: PROCESS FOR THE MANUFACTURE	:	
OF DISPERSIBLE ALUMINO-SILICATES	:	

The above-identified application is withdrawn from issue before payment of the issue fee. See 37 CFR 1.313 (a). Applicants have petitioned to have the above entitled application withdrawn from issuance in connection with a Petition to be filed requesting that Applicants' claim for priority be acknowledged and granted.

The above-identified application is hereby withdrawn from issue.

Applicants have authorized the charging of the petition fee to Deposit Account no. 02-4345.

Telephone inquiries should be directed to Thomas Dunn at (571) 272-1171.

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

C. James Bushman
BROWNING BUSHMAN
5718 Westheimer, Suite 1800
Houston, TX 77057

cc: Allowed Files—Pk3-910

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PET. DEC.

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APR 14 2004

In re Application of	:	
Andrea Brasch, et al.	:	
Serial Number : 09/054,830	:	WITHDRAWAL
Filed : January 23, 2002	:	FROM
For : PROCESS FOR THE MANUFAC-	:	ISSUE
TURE OF DISPERSIBLE ALUMINO-	:	
SILICATES	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee to applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

BROWNING BUSHMAN P.C.
Suite 1800
5718 Westheimer
Houston, TX 77057-5771

cc:Allowed Files, Pk3-910

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td

Mailed: 2-2-06

In re application of	:	
Andrea Brasch et al.	:	DECISION ON
Serial No. 10/054,830	:	PETITION
Filed: January 23, 2002	:	

For: PROCESS FOR TE MANUFACTURE OF DISPERSIBLE ALUMINO-SILICATES

This is a decision on the PETITION PURSUANT TO RULE 1.1(a)(3)(c) RELATING TO THE GRANT OF PRIORITY.

The instant petition was filed on November 8, 2004. The fact pattern in this case is presented in full detail in the instant petition. The issue is whether or not applicants can claim priority to the German priority document. The fact that an improper translation was filed in the 371 application from which the current application depends, does not change the fact that an original disclosure was timely filed in the office. For this reason and the reasons set forth by petitioner in the instant petition the petition is **GRANTED.** The application is being forwarded to the examiner to take appropriate action consistent with this decision.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

BROWNING BUSHMAN P.C.
Suite 1800
5718 Westheimer
Houston TX 77057-5771

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BACON & THOMAS
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

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FEB 07 2006

OFFICE OF PETITIONS

In re Patent No. 6,765,538	:	
Issue Date: July 20, 2004	:	
Application No. 10/054,867	:	LETTER
Filed: January 25, 2002	:	
Attorney Docket No. FANG3008/EM	:	

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 matter is being referred to Files Repository.

Wan Laymon
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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JJGJR.: 02-05

Paper No: __

DARYL W SCHNURR
MILLER THOMSON LLP
PO BOX 578
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KITCHENER ON N2G 4A2
CANADA

COPY MAILED

FEB 28 2005

OFFICE OF PETITIONS

In re Application of :
Witzel :
Application No. 10/054,893 : DECISION ON PETITION
Filing Date: 25 January, 2002 :
Attorney Docket No. 39452 :

This is a decision on the petition filed on 5 January, 2004, and resubmitted on 14 January, 16 April and 3 August, 2004, and then again via FAX on 25 February, 2005, alleging, *inter alia*, improper abandonment by the Office and requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter.

For the reasons set forth below, the petition as considered under 37 C.F.R.§1.181 is **DISMISSED**,

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.181, or 37 C.F.R. §1.137(a) (as to unavoidable delay) or an alternative request for relief under 37 C.F.R. §1.137(b) (as to unintentional delay) **must be submitted within two (2) months from the mail date of this decision**. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a

cover letter entitled "Petition under 37 C.F.R. §1.137(a)"; or "Petition under 37 C.F.R. §1.137(b)";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 13 March, 2003, with reply due absent extension of time on or before 13 June, 2003;
- the application went abandoned after midnight 13 June, 2003;
- the Office mailed a Notice of Abandonment on 20 October, 2003;
- it appears from the record that Petitioner filed a reply on or about 12 November, 2003, however, Petitioner did not seek to have withdrawn the holding of abandonment until the filing of a petition on 5 January, 2004, which was resubmitted on 14 January, 16 April and 3 August, 2004, and then again via FAX on 25 February, 2005;
- with his petition(s), Petitioner has included, *inter alia*:

  --a copy of a reply alleged to have been filed via FAX on 10 June, 2003;

  –copies of Petitioner's FAX transmittal certificate dated 10 June, 2003 (however, the certificate references "an amendment dated May 13, 2003," and the amendment document submitted with it is dated "June 5, 2003") and confirmation of transmission from Petitioner's FAX machine;

  –a copy of an Auto-Reply Facsimile Transmission confirming Office receipt of Petitioner's submission on 14 January, 2004;

- notably there is no Auto-Reply Facsimile Transmission confirming Office receipt of Petitioner's submission on 10 June, 2003.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]

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[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

And petitions calling upon the authority of the Commissioner to act, such as that under 37 C.F.R. §1.181,[7] require diligence as to their filing–i.e., the petition must be filed within two months of the action complained of.

Allegations as to the Request to Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

While the instant petition was not timely filed, the more difficult problem with which Petitioner is confronted in the instant petition is that, while Petitioner seeks to make a showing that he submitted a reply, there is no showing that the Office received that reply. The regulations at 37 C.F.R. §1.8 can either support a showing of:

- timely submission of a reply that is later received by the Office as a result of the transmission, or

- due diligence with regard to unavoidable delay as to a submission that is not later received by the Office as a result of the transmission.

The former condition may support the showing required as to a request to withdraw the holding

---

[7] The regulations at 37 C.F.R. §1.181 provide:

§ 1.181 Petition to the Commissioner.

(a) Petition may be taken to the Commissioner:

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by orreviewed by the Commissioner; and

(3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Commissioner the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

(e) Oral hearing will not be granted except when considered necessary by the Commissioner.

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

(g) The Commissioner may delegate to appropriate Patent and Trademark Office officials the determination of petitions.

[24 Fed. Reg. 10332, Dec. 22, 1959; 34 Fed. Reg. 18857, Nov. 26, 1969; paras. (d) and (g), 47 Fed. Reg. 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 Fed. Reg. 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 Fed. Reg. 76756, Dec. 7, 2000, effective Feb. 5, 2001]

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

of abandonment under 37 C.F.R. §1.181, while the latter may support the showing required as to a petition to revive alleging unavoidable delay under 37 C.F.R. §1.137(a).

Thus, as of this writing Petitioner fails to satisfy the required showing as to withdrawal of the holding of abandonment–and it does not appear that he will be able to do so.

CONCLUSION

Because Petitioner failed to satisfy the burdens set forth in Delgar v. Schulyer, the petition under 37 C.F.R. §1.181 must be and hereby is **dismissed**.

ALTERNATIVE VENUE

It appears unlikely that Petitioner likely is able to make a showing to support a request to withdraw the holding of abandonment. Therefore, Petitioner's only alternative to irretrievable abandonment is to:

- file a petition under 37 C.F.R. §1.137(a) or §1.137(b) with fee: and
- ensure that Petitioner also has satisfied the "reply" and "showing" requirements under the respective regulations as to unavoidable or unintentional delay.

Thus, Petitioner may wish to supplement the petition to plead alternatively under 37 C.F.R. §1.137(a) or §1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(703) 872-9306
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700.

Mailed: APR 18 2005

rvk

Paper No. _____

In re application of:
Theodore A. Witzel
Serial No.: 10/054,893
Filed: January 02, 2002
For: FLAVOR WAVE PLATE FOR BARBECUES AND COMBINATION OF FLAVOR WAVE AND BARBECUE :

DECISION ON PETITION

This is a response to the PETITION TO THE COMMISION UNDER RULE 1.181, PETITION FOR REVIVAL OF ABANDONED APPLICATION OR A PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT, filed December 19, 2003 and August 03, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of October 20, 2003, for failure to timely file a proper response to the Office letter dated March 13, 2003 be withdrawn. The petitioner asserts that applicant timely filed a proper response on June 13, 2003.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicant did file the proper response to the Office letter of March 13, 2003 in a timely manner. The evidence provided includes: 1) a copy of the Response to the Office letter of March 13, 2003 with an executed Certificate of Facsimile Transmission dated June 10, 2003 (Exhibit C); and 2) a copy of a letter dated August 05, 2003 to the Attorney's client reporting that the Reply was forwarded to the USPTO on June 10, 2003.

Therefore, the abandonment is hereby withdrawn, and the application is returned to

pending status. The application will be forwarded to the Technical Support Staff for entering of the Response dated June 10, 2003 and then forwarded to the examiner for prompt consideration.

The Petition is **GRANTED.**

JStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

DARYL W. SCHNURR
BARRISTER & SOLICITOR
PO BOX 2607
15 WEBER STREEST WEST
KITCHENER, ONTARIO, N2H6N2
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20037-3213

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Satoshi Shinada et al :
Application No. 10/054,898 :
Filed: January 25, 2002 :
Attorney Docket No. Q67951

This is a decision on the petition, filed September 16, 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 May 5, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

This matter will be forwarded to Technology Center AU 2863 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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901 New York Avenue, NW
WASHINGTON DC 20001-4413

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APR 2 8 2008

OFFICE OF PETITIONS

In re Application of :
James W. MCCAHERTY :
Application No. 10/054,952 : DECISION ON PETITION
Filed: January 25, 2002 :
Attorney Docket No. **8350.0763-00** :

This is a decision on the petition, filed December 04, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of February 27, 2007, which set a three (3) month shortened statutory period for reply. A reply was due on or before May 29, 2007.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on May 29, 2007 of, *inter alia,* Pre-Appeal Brief Request for Review, Notice of Appeal, Pre-Appeal Brief Request for Review and Check in the amount of $500.00. A copy of the previously submitted reply accompanies the petition.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on May 29, 2007.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2629 for appropriate action in the normal course of business on the reply received with petition.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland OR 97205

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JAN 22 2008

OFFICE OF PETITIONS

In re Application of

Kuan-Yu Lee

Application No. 10/054,961

Filed: January 25, 2002

Attorney Docket No. 9585-0302

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), August 27, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the Office action mailed January 9, 2006[1]. A Notice of Abandonment was mailed on July 11, 2007, indicating that the application became abandoned for failure to respond the Office action mailed January 9, 2006.

The amendment filed August 27, 2007, is noted.

The application is being forwarded to Technology Center 2600, GAU 2625 for further processing.

[1] The undersigned was not able to view in the electronic file for this application the Office action mailed January 9, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Commissioner for Patents
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HUMAN GENOME SCIENCES INC
INTELLECTUAL PROPERTY DEPT
14200 SHADY GROVE RD
ROCKVILLE MD 20850

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JAN 25 2005

OFFICE OF PETITIONS

In re Patent No. 6,815,420	:	DECISION ON
Kreider, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: November 9, 2004	:	AND NOTICE OF INTENT
Application No. 10/054,967	:	TO ISSUE
Filed: January 25, 2002	:	CERTIFICATE OF
Attorney Docket No. PF115P4C1D1	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed December 22, 2004. Patentees request that the patent term adjustment indicated on the patent be corrected from zero (0) days to one hundred forty-nine (149) days.

The petition is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **seventy-eight (78)** days.

On November 9, 2004, the above-identified application matured into U.S. Patent No. 6,815,420. The instant request for reconsideration filed December 22, 2004 was timely filed within two months of the date the patent issued. See § 1.705(d). The Patent issued with a Patent Term Adjustment of zero (0) days. Patentees states that the initial determination of patent term adjustment days should not have been reduced to 0 days for: (1) the submission of an Issue Fee Transmittal Letter, filed contemporaneously with the payment of the issue fee (applicant delay of 104 days); and (2) the submission of an amendment in response to a "Notice of Drawing Inconsistency with Specification (applicant delay of 71 days).

The adjustment of one hundred four (104) days for the filing of a "ISSUE FEE TRANSMITTAL LETTER" has been found to be incorrect. Accordingly, applicant delay with respect to this filing should have been ZERO (0) days.

However, the adjustment of seventy-one (71) days for filing an amendment after a Notice of Allowance has been found to be correct. Applicant argues that the paper was not an amendment due to an Official Gazette notice. However, review of the particular notice confirms that such papers are in fact an amendment; the Office is merely waiving the requirement of withdrawal from issue if the amendment is filed after payment of the issue fee.

In view thereof, the correct determination of PTA at the time of issuance is seventy-eight (78)days (149 days of PTO delay, reduced by 71 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **seventy-eight (78)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Karin Ferriter
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enc: draft certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 7

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
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ARLINGTON, VA 22202

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SEP 2 5 2002

OFFICE OF PETITIONS

In re Application of
Hukari et al.
Application No. 10/054,973
Filed: January 25, 2002
Attorney Docket No. 216645US
For: Protective Layers for Optical Coatings

: DECISION GRANTING
: PETITION UNDER
: 37 CFR 1.47

This is in response to the petition under 37 CFR 1.47(a) filed August 19, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers.

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 file will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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NATH & ASSOCIATES PLLC
1030 15th Street, NW
6th Floor
Washington , D.C. 20005

MAILED

APR 15 2005

Technology Center 2100

In re Application of:
Laurence E. LaFORGE, et al.
Application No.: 10/055011
Filed: January 25, 2002
For: SYSTEM FOR CREATING AND READING DIGITAL BUSINESS CARDS, FORMS, AND STATIONERY

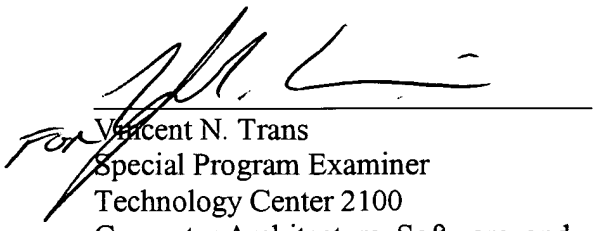
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed December 20, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.



Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: Mr. Laurence E. LaForge
The Right Stuff of Tahoe, Incorporated
3341 Adler Court
Reno, NV 89503-1263

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

January 2005

Duane Morris, LLP
IP Department
One Liberty Place
Philadelphia, PA 19103-7396

JAN 24 2005

In re Application of:	:	
Chuan-Chieh Huang et al.	:	DECISION ON PETITION TO
Serial No.: 10/055,095	:	WITHDRAW THE HOLDING
Filed: January 23, 2002	:	OF ABANDONMENT
Attorney Docket No.: TSO1-614	:	

This is a decision on the petition to withdraw the holding of abandonment of the above-identified application under 37 C.F.R. § 1.181 filed on May 20, 2004. There is no fee for this petition.

The petition is **GRANTED**.

The application was held abandoned for failure to file a proper response to the Office action mailed on September 10, 2003. A Notice of Abandonment was mailed on April 8, 2004.

Petitioner asserts that a response to the Office action was timely filed on February 12, 2004. To support this assertion, petitioner has submitted a copy of the response and a copy of a stamped return postcard which identifies and acknowledges receipt of the response by the Patent and Trademark Office (PTO) on February 12, 2004. Although the transmittal form for the response and the postcard incorrectly lists the Serial No. as 10/055,059 instead of 10/055,095, the other information such as the inventive entity and the filing date are correct on the transmittal form (the postcard lists the incorrect inventive entity but the correct filing date). The combination of information should have been sufficient to match the response to the appropriate application file. The response of February 12, 2004 would have been a timely response to the Office action of September 10, 2003 since it was filed with a petition and fee for a two-month extension of time and included a Certificate of Mailing dated February 10, 2004. See 37 C.F.R. §§ 1.136 and 1.8.

A review of the application file record reveals that the above-identified response having been acknowledged as being received in the PTO on February 12, 2004 was originally matched with S.N. 10/055,059 but later matched with the intended S.N. 10/055,095. Although there was no separate "petition" for extension of time and such was not listed on the postcard, the listing under additional fees on the transmittal form of an (e)xtension for reply within second month,

plus the authorization to charge the given Deposit Account Number for the associated fee and any additional fee(s), is being accepted as a "petition" and "fee" for the extension of time.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed April 8, 2004 is hereby **VACATED** and the holding of abandonment is withdrawn. The status of the application will be changed and the examiner will be notified to resume prosecution.

PTO records indicate that the $420.00 fee for the two-month extension of time (not $410.00 as listed on the transmittal sheet) was charged to correct Deposit Account No. 190033 but associated with incorrect Serial No. 10/055,059. The authorization for the fee was received on February 12, 2004 and posted on February 17, 2004. The correction will be made to associate this fee with Serial No. 10/055,095.

It is noted that the present petition, similiar to the postcard, incorrectly lists the inventive entity. The petition lists the inventive entity as "Chieh, L.C. et al" while the postcard lists the inventive entity as Chieh, H.C. et al." The correct inventive entity is Huang, Chuan-Chieh et al. or Chuan-Chieh Huang et al. Applicant is requested to ensure that any future paper submitted for the present application correctly lists the correct inventive entity as well as the correct Serial Number and filing date. Applicant is also encouraged to include a separate written petition for any future desired extension of time. A proper petition may be a mere sentence as indicated in MPEP section 710.02(e).

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Sharon Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant	: Bernard A. Traversat	: DECISION ON REQUEST FOR
Patent Number	: 7574523	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/055,097	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/22/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1887** 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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www.uspto.gov

PROSKAUER ROSE LLP
One International Place
Boston, MA 02110

Mail Date: 05/24/2010

Applicant	: Jason Albert Reading	: DECISION ON REQUEST FOR
Patent Number	: 7657590	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/055,100	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/22/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1145** 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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MAY 2 2 2006

OFFICE OF PETITIONS

RAYMOND A. JOAO, ESQ.
122 BELLEVUE PLACE
YONKERS NY 10703

In re Application of :
Raymond Anthony Joao :
Application No. 10/055,116 : ON PETITION
Filed: January 22, 2002 :
Attorney Docket No. RJ500 :

This is a decision on the petition, filed May 19, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 27, 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 3621 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RAYMOND A. JOAO, ESQ.
122 BELLEVUE PLACE
YONKERS, NY 10703

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FEB 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Raymond Anthony Joao	:	
Application No. 10/055,116	:	DECISION GRANTING PETITION
Filed: January 22, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. RJ500	:	

This is a decision on the petition, filed February 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 November 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 2612 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\Feb10\055116.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
P.O. Box 1450
Alexandria, VA 22313-1450
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IVOR R. ELRIFI, ESQUIRE
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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OFFICE OF PETITIONS

In re Application of	:	
John Chapman et al	:	
Application No. 10/055,143	:	DECISION GRANTING PETITION
Filed: January 22, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 18242-508 CIP2	:	
(VI-8 CIP2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 4, 2007, to revive the above-identified application.

The petition is **DISMISSED as Moot**.

The petition is dismissed as moot in view of the request filed August 8, 2007 to withdraw the petition under 37 CFR 1.137(b) filed April 4, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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ANDREW ALEXANDER
ANDREW ALEXANDER & ASSOCIATES
3124 KIPP AVENUE
P.O. BOX 2038
LOWER BURRELL PA, 15068

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APR 2 7 2009

OFFICE OF PETITIONS
ON PETITION

In re Patent No. 6,837,982 :
Issue Date: January 4, 2005 :
Application No. 10/055,153 :
Filed: January 25, 2002 :
Patentee(s) Robert J. Barnett et al :

This is a decision on the petition under 37 CFR 1.378(c), filed March 13, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Gary P. Topolosky
4031 Brownsville Road
Pittsburgh, PA 15227-3419

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 8027-2400

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OFFICE OF PETITIONS

In re Application of
Simon Dodd et al
Application No. 10/055,161
Filed: October 26, 2001
Attorney Docket No. 10110412

ON PETITION

This is a decision on the petition, filed by facsimile transmission on November 13, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 16, 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 instant petition under 37 CFR 1.313(c)(2), the RCE and the IDS, filed on November 13, 2003, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Peter Reitan appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he act. However, if Mr. Reitan 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. Reitan, the petitioner herein. Until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center Art Unit 2812 for processing of the request for continued examination under 37 CFR 1.114 filed November 13, 2003.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
LAW OFFICES OF LARRY K. ROBERTS, INC.
P.O. BOX 8569
NEWPORT BEACH, CA 92658-8569

#7

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

July 9, 2002

WOOD, PHILLIPS, VANSANTEN, CLARK & MORTIMER
500 W. Madison St., Ste. 3800
Chicago, IL 60661

Dear Sir/Madam,

This is to Deny your refund request in the amount of $1,926.00, for patent/serial number 10055169.

Application has 216 claims not 109. Claim number 109 is a multiple that depends on 108 claims.

Sincerely,

ELEANOR KURTZ
Office of Initial Patent Examination
Refund Section, Office of Finance

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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KONRAD RAYNES & VICTOR, LLP
ATTN: IBM54
315 SOUTH BEVERLY DRIVE, SUITE 210
BEVERLY HILLS CA 90212

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OCT 01 2008

In re Application of	:	
John Christian Hermansen, et al.	:	
Application No. 10/055,178	:	DECISION GRANTING PETITION
Filed: January 25, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SVL920060501US3	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 30, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 8, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2166 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri 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 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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United States Patent and Trademark Office
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Gunnar G. Leinberg, Esq.
Nixon Peabody LLP
1100 Clinton Square
Rochester, NY 14604

Mail Date: 04/21/2010

Applicant	: Sarah E. Campbell	: DECISION ON REQUEST FOR
Patent Number	: 7663770	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/055,189	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/25/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **980** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

Jeffrey C. Hood
Conley, Rose, & Tayon, P.C.
P.O. Box 398
Austin TX 78767

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SEP 12 2002

OFFICE OF PETITIONS

In re Application of
Peck, et al.
Application No. 10/055,241
Filed: October 29, 2001
Attorney Docket No. 5150-63500
For: SYSTEM AND METHOD FOR CONFIGURING A RECONFIGURABLE SYSTEM

: DECISION GRANTING
: PETITION

This is a decision on the petition entitled, "PETITION FOR OMITTED ITEMS 37 CFR 1.17(h)," filed June 11, 2002 (certificate of mailing date May 28, 2002), requesting, in effect, withdrawal of the Notice to File Corrected Application Papers (Notice), insofar as it pertains to pages 67, 128 and 139 being omitted on filing. The petition will be treated under 37 CFR 1.53(e).

The application was filed on October 29, 2001. On April 25, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that pages 67, 128, and 139 of the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that pages 67, 128, and 139 be accorded a filing date of October 29, 2001 on the basis that the allegedly missing pages 67, 128, and 139 were received in the Patent and Trademark Office (PTO) on October 29, 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 29, 2001 as the date of receipt. The postcard lists, *inter alia*, that the filing included 128 pages of disclosure and 14 pages of claims.

The return postcard constitutes *prima facie* evidence that pages 67, 128, and 139 were filed on October 29, 2001. MPEP 503. Accordingly, the request is **granted**.

No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of October 29, 2001, using the copies of pages 67, 128, and 139 and 40 sheets of substitute drawings 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
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Jeffrey C. Hood
Meyertons, Hood, Kivlin, Kowert & Goetzel PC
P.O. Box 398
Austin, TX 78767-0398

MAILED

SEP 04 2007

Technology Center 2100

In re Application of:
Joseph E. Pec et al.
Application No. 10/055,241
Filed: January 25, 2003
For: System and Method for Configuring
A Reconfigurable System

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed May 31, 2007 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require Consideration of the Information Disclosure Statement Submitted October 6, 2003.

On filed May 31, 2007, applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the examiner in relation to the Notice of Allowability mailed December 5, 2006. In the petition, applicant's counsel alleged that the non-consideration of the references in the Information Disclosure Statement is improper and that the references must be considered.

A review of the record indicates that the Information Disclosure Statement along with references listed therein was received by the USPTO on October 8, 2003. The Information Disclosure Statement complies with the requirements of 37 CFR 1.97 & 1.98 and therefore must be considered.

Accordingly, the petition is **Granted.**

The application is currently awaiting review of the Information Disclosure Statement by the examiner. An acknowledgement of its review will be mailed shortly.

Any inquiry concerning this decision should be directed to Gail Hayes whose telephone number is (571) 272-3591.

Gail Hayes
QAS WorkGroup 2190
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 4

International Business Machines Corporation
Intellectual Property Law
Personal and Printing Systems Group
Dept. 9CCA/Bldg. 002-2, P.O. Box 12195
Research Triangle Park NC 27709

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JUL 16 2002

OFFICE OF PETITIONS

In re Application of :
Hansen et al. :
Application No. 10/055,244 : DECISION GRANTING PETITION
Filed: October 26, 2001 :
Attorney Docket No. RPS9 2001 0094 :

This is a decision on the petition filed May 20, 2002 (certificate of mailing May 7, 2002), requesting that Page 1 of the specification be accorded a filing date of October 26, 2001, as part of the original disclosure.

On October 26, 2001, applicants filed the above-identified application. On March 8, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of October 26, 2001, and advising applicants that Page 1 of the specification appeared to have been omitted.

In response, on May 20, 2002 (certificate of mailing May 7, 2002), applicants filed the present petition, the petition fee, and a copy of Page 1 of the specification. Additionally, applicants submitted a copy of applicants' postcard receipt acknowledging receipt of 13 pages of specification.

In the present petition, applicants request that the application, including Page 1 of the specification, be accorded a filing date of October 26, 2001, and the petition fee be refunded.

Upon review of the record, Page 1 of the specification, deposited on October 26, 2001, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on October 26, 2001, included Page 1 of specification, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Page 1 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 March 8, 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. 09-1990.

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 Pages 2-13 of the specification submitted on October 26, 2001, and Page 1, submitted on May 20, 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
www.uspto.gov

JAN 30 2002

Hale and Dorr, LLP
60 State Street
Boston, MA 02109

In re Application of PANICO :
U.S. Application No.: 10/055,251 :
Int. Application No.: PCT/US99/26188 :
Int. Filing Date: 04 November 1999 : DECISION ON PETITION
Priority Date: 04 November 1998 :
Attorney Docket No.: 99148.165 : UNDER 37 CFR 1.137(b)
For: SPIRAL-SHAPED LAMP FOR UV CURING OF COATINGS AND BONDING FOR A DIGITAL VERSATILE DISK (DVD) OR COMPACT DISK (CD) :

This is in response to applicants' "Petition to Revive Under 37 C.F.R. § 1.137(b)" filed 11 January 2002.

BACKGROUND

On 04 November 1999, applicant filed international application PCT/US99/26188, which claimed priority of an earlier United States application filed 04 November 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 01 June 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 04 May 2001.

International application PCT/US99/26188 became abandoned as to the United States at midnight on 04 May 2001 for failure to pay the basic national fee.

On 11 January 2002, applicant filed the present petition. The petition states that it is accompanied by U.S. application papers, an application data sheet, the petition fee set forth in 37 CFR 1.17(m), and a statement that "the entire delay in filing this application from the due date of the reply was unintentional." The application data sheet states that the accompanying U.S. application papers are a continuation application of international application PCT/US99/26188.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), the filing of the present continuation application is accepted as the appropriate response under 37 CFR 1.137(b).

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), the petition states, "the entire delay in filing this application from the due date of the reply was unintentional." This statement is interpreted 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 under 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.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

International application PCT/US99/26188 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present U.S. continuation application number 10/055,251.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision and will thereafter be forwarded to the Office of Initial Patent Examination for further processing and review as an application filed under 35 U.S.C. 111.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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WILMER CUTLER PICKERING HALE AND DORR LLP
60 STATE STREET
BOSTON MA 02109

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MAY 11 2006
OFFICE OF PETITIONS

In re Application of :
Panico , et al. :
Application No. 10/055,251 : ON PETITION
Filed: January 11, 2002 :
Attorney Docket No. 99148.165 :
For: SPIRAL-SHAPED LAMP FOR UV CURING OF COATINGS AND BONDING FOR A DIGITAL VERSATILE DISK (DVD) OR COMPACT DISK (CD)

This is a decision on the petition under 37 CFR 1.137(b), filed on April 3, 2006 to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action mailed June 28, 2005, which set an extendable three month period for reply. Applicants submitted a three month extension of time and an amendment after final on December 30, 2005 (certificate of mailing date December 28, 2005). The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the January 17, 2006 Advisory action. Accordingly, this application became abandoned on December 29, 2005. A Notice of Abandonment was mailed on March 27, 2006.

Applicants have submitted a RCE and required fee and amendment in reply to the June 28, 2005 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the June 28, 2005 final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 1733 for consideration of the RCE and amendment filed on April 3, 2006.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

#4

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Paper No. 4

MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: BIONEBRASKA
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

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OFFICE OF PETITIONS

In re Application of
J.J. Holst et al.
Application No. 10/055,259
Filed: October 26, 2001
Attorney's Docket No. P03987US1

ON PETITION

This is a decision on the petition filed June 21, 2002, under 37 CFR 1.182 requesting that the above-identified application retain the original filing date of parent application 09/333,415 of June 15, 1999, with Page 7 of the specification, as originally filed.

The petition under 37 CFR 1.182 is **GRANTED to the extent indicated below.**

The application was filed on October 26, 2001. On April 30, 2002, a Notice of Omitted Items in a Nonprovisional Application was mailed stating that Page 7 of the specification (description and claims) appeared to have been omitted. [1]

In response, on June 21, 2002, the present petition was filed, accompanied by a copy of Page 7 of the specification as well as a petition fee of $130.00. Petitioners argue that Page 7 was filed with the other application papers on October 26, 2002. In support, a postcard receipt shows an Office date stamp of October 26, 2002, and the above-identified application number, identifies the application by the first inventor's name and attorney's docket number, and acknowledges receipt of, *inter alia*, 26 pages of the application (specification, abstract, and claims). Petitioners request that the application, including Page 7 of the specification, be allowed to maintain the filing date of June 15, 1999.

---

[1]The Notice of Omitted Items was included with a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures. The petition filed June 21, 2002 was also in response to the Notice to Comply and provided a paper copy of the Sequence Listing , a computer readable copy of the Sequence Listing and a Declaration that the content of the paper and computer readable copies are the same and include no new matter, pursuant to the requirements of 37 CFR 1.821-1.825.

A review of the record reveals that no Page 7 of the specification has been located among the application papers deposited on October 26, 2001. However, the evidence is convincing that the application papers filed October 26, 2001, included Page 7 of the specification. Therefore, the application, including Page 7 of the specification, is entitled to maintain the filing date of October 26, 2001.

It should be noted however that by supplying the missing page of the specification, the application is entitled to retain the filing date of October 26, 2001 **but not the filing date of the parent, June 15, 1999**. The filing date of a divisional application is the date on which a request on separate paper for an application under 37 CFR 1.53 is filed.

In view of the above, the petition as it pertains to the omitted items is granted. The petition fee is unnecessary and will be credited to counsel's deposit account no. 26-0084.

The application will be processed and examined using the copy of Page 7 of the specification supplied June 21, 2002.

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 that date and the copy of Page 7 of the specification supplied on June 21, 2002.

Telephone inquires regarding this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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WARREN A. SKLAR
RENNER, OTTO, BOISSELLE & SKLAR, LLP
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1621 EUCLID AVENUE
CLEVELAND, OH 44115-2191

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OFFICE OF PETITIONS

In re Application of :
ROTH, Jonathan E. et al. :
Application No. 10/055,282 : DECISION ON PETITION
Filed: January 22, 2002 : TO WITHDRAW
Attorney Docket No. **UNIVP104USA** : 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 28, 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 Jason A. Worgull on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JONATHAN E. ROTH**
1204 SPRING MEADOW LANE
LANSDALE, PA 19446

cc: **KRAGULJAC & KALNAY, LLC**
SUMMIT ONE
4700 ROCKSIDE ROAD
SUITE 150
INDEPENDENCE, OH 44131

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Paper No. 9

KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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JUL 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Donald G. Harrison :
Application No. 10/055,304 :
Filed: January 23, 2002 : ON PETITION
Attorney Docket No. 100102-3181 :
For: ONE-PIECE INTEGRALLY-FORMED :
GOGGLE :

This is a decision on the petition under 37 CFR 1.137(b), filed June 10, 2004, to revive the above-identified application. This is also in response to the petition under 37 CFR 1.47(b), filed June 4, 2004 and supplemented on June 10, 2004.

The petitions are granted.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed February 20, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 21, 2002.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

Petitioner has demonstrated that the non-signing inventor cannot be reached to sign the application.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to the Office of Initial Patent Examination for preexamination processing.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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DONALD G. HARRISON
KIAZEN DESIGN LAB, INC.
3014 STALLY STREET
HOUSTON, TX 77092

In re Application of
Donald G. Harrison
Application No. 10/055,304
Filed: January 23, 2002
For: ONE-PIECE INTEGRALLY-FORMED GOGGLE

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OFFICE OF PETITIONS

Dear Mr. Harrison:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703)305-. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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Paper No.

Mark F. Smith
Smith, Guttag & Bolin Ltd.
Ste. 102
7577 Central Park Boulevard
Mason, OH 45040

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MAY 24 2004

OFFICE OF PETITIONS

In re Application of :
Brockman et al. :
Application No. 10/055,312 : ON PETITION
Filed: October 26, 2001
Attorney Docket No. FTL-001PAT

This is in response to the petition under 37 CFR 1.137(b), filed February 11, 2004.

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, October 22, 2003, 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 January 23, 2004. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

The petition includes the required reply in the form of payment of the Issue Fee and the Publication Fee[2]; the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

The Office of Patent Publication has been advised of this decision. The application is ready for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[2] There was no distinct but concurrent requirement for new drawings.

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WALL & TONG, LLP/
ALCATEL-LUCENT USA INC.
595 SHREWSBURY AVENUE
SHREWSBURY, NJ 07702

Mail Date: 06/16/2010

Applicant	: Parag M. Doshi	: DECISION ON REQUEST FOR
Patent Number	: 7633896	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/055,333	: 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 **1274** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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In re Patent No. 6701092
Issue Date: March 2,2004
Application No. 10055359
Filed: January 22,2002
Attorney Docket No. 5190-00105

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 23,2009 ,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 23,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,701,092	2004-03-02	10/055,359	2002-01-22	5190-00105

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	/Jeffrey C. Hood/	Date (YYYY-MM-DD)	2009-02-23
Name	Jeffrey C. Hood	Registration Number	35198

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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SAN JOSE, CA 95131

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of :
Eise Carel Dijkmans, et. al. :
Application No. 10/055,388 : ON PETITION
Filed: January 23, 2002 :
Attorney Docket No. NL 010029 :

This is a decision on the petition under 37 CFR 1.137(b), filed on February 12, 2008, to revive the above-identified application.

The above application became abandoned for failure to file a proper reply to the final Office action mailed May 31, 2006. A Notice of Abandonment was mailed on September 11, 2007.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Further, 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 Michael J. Ure appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

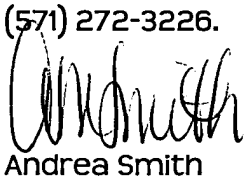
As authorized, the petition fee of $1,540 and the Request for Continued Examination (RCE) fee of $810 have been charged to petitioner's deposit account.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an RCE with the $810 filing fee; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE filed on February 12, 2008.

The application file is being referred to Technology Center Art Unit 2618, for consideration/entry of the amendment previously filed on August 31, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.



Andrea Smith
Petitions Examiner
Office of Petitions

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BRIARCLIFF MANOR NY 10510

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OFFICE OF PETITIONS

In re Application of :
Cyril Allouche :
Application No. 10/055,389 :
Filed: January 23, 2002 :
Attorney Docket Number: FR 010003 : ON PETITION

This is a decision on the Petition Under 37 CFR 1.181(a) to Withdraw Holding of Abandonment, filed March 16, 2006.

This Petition is hereby **granted**.

A non-final Office action was mailed January 6, 2005. Applicant responded to the Office action on May 10, 2005; however, the Amendment filed in response to the Office action was non-compliant. Applicant was so notified in a Notice of Noncompliant Amendment mailed May 18, 2005. Applicant was given one (1) month to reply to the Notice. No reply having been received, the application became abandoned June 19, 2005. A Notice of Abandonment was mailed January 24, 2006.

Applicant files the instant petition and avers that the Notice was not received.

With the instant petition, Petitioner has demonstrated non-receipt of the Notice by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No fee has been charged and none is due.

With the instant petition Applicant has filed a response to the Notice. The application will be referred to Technology Center Art Unit 2623 for processing of the response to the Notice.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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INTELLECTUAL PROPERTY BUSINESS
15460 LAGUNA CANYON ROAD
MC 1650-7006
IRVINE CA 92618

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OFFICE OF PETITIONS

In re Application of	:	
Zachary C. Hoisington et al.	:	
Application No. 10/055,411	:	DECISION ON PETITION
Patent No. 6,848,650	:	UNDER 37 C.F.R. §1.182
Filed: October 29, 2001	:	
Issued: February 1, 2005	:	
Attorney Docket No. 7784-000244	:	
Title: GROUND EFFECT AIRPLANE	:	

This is a decision on the petition under 37 C.F.R. §1.182, filed May 13, 2005, to correct the spelling of the name of one of the joint inventors. Office records show that the first named joint inventor is Zachary C. Hoisignton. Petitioner has requested that the spelling of this joint inventor's name be corrected to read "Zachary C. Hoisington."

Petitioner has submitted the processing fee. The petition fee of $130 has been charged to Petitioner's Deposit Account, as authorized in the petition.

As such, the petition under 37 C.F.R. §1.182 is **GRANTED**. The first-named joint inventor is now listed as:

Zachary C. Hoisington

The Certificates of Correction Branch will be made aware of this decision so that a certificate of correction can be prepared.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

It is noted that the address listed on the petition differs from the address of record. The

application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Mark Elchuk
Harness, Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

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Paper No. 072704

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. Box 3001
Briarcliff Manor, MANOR NY 10510

JUL 28 2004

In re Application of:
DICKEN *et al.*
Serial No.: 10/055,421
Filed: January 22, 2002
Attorney Docket No.: **PHNL 010076**

DECISION

This is a decision on the petition filed March 31, 2004, to withdraw the holding of abandonment under MPEP § 711.03(c). This petition has been treated as a petition under 37 C.F.R. § 1.181, to withdraw the holding of abandonment. No fee is required.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a proper response to the final Office action mailed on April 28, 2003. A proposed amendment was filed on June 16, 2003. An advisory action was mailed on July 15, 2003. A Notice of Abandonment was mailed on March 13, 2004.

The requester asserts that on July 29, 2003, a response to the final Office action was filed. The response included a Request for Continued Examination (RCE), with a request to consider the after final amendment filed June 16,2003. To support this assertion, the requester has provided a copy of the response that includes a proper Certificate of Mailing under 37 C.F.R. § 1.8, and a copy of the date stamped postcard receipt which acknowledges receipt in the USPTO on August 05, 2003.

A review of the application file record reveals that the above-identified response having been acknowledged as being received in the PTO on August 05, 2003, is not of record in the application file and cannot be located. However, 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 but lost somewhere after receipt thereof.

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 copy of the response submitted with the petition on March 31, 2004, is accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the Technology Center 2800 support staff for processing the RCE. From there, the application will be forwarded to the examiner for taking further action.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No. 12

Vrex, Inc.
85 Executive Blvd.
Elmsford, NY 10523

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FEB 23 2004

OFFICE OF PETITIONS

In re Application of :
Carl Tung :
Application No. 10/055,481 : DECISION GRANTING PETITION
Filed: January 23, 2002 : UNDER 37 CFR 313(c)(2)
Attorney Docket No. VREX-0010USAA0NOO :

This is a decision on the petition, filed February 13, 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 January 21, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2871 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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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ELI LILLY & COMPANY
PATENT DIVISION
P.O. BOX 6288
INDIANAPOLIS, IN 46206-6288

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OFFICE OF PETITIONS

In re Application of :
Chin-Ming Chang, et al. :
Application No. 10/055,509 : ON PETITION
Filed: January 23, 2002 :
Attorney Docket No.: X-10911A :

This is a decision on the petition, filed June 22, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 15, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1654 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

In re Application of :
Matthew L. PARSONS et al. :
Application No. 10/055,511 : ON PETITION
Filed: January 23, 2002 :
Attorney Docket No. 71710-56440 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 29, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed January 24, 2005, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on April 25, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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 the Office of Patent Publication.

Brian Hearn
Petitions Examiner
Office of Petitions

Cc: Baker & Hostetler LLP
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, DC 20036

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March 31, 2004

William B. Lacy
Acushnet Company
P. O. Box 965
Fairhaven, MA 02719-0965

In re application of:
Michael J. Sullivan DECISION ON PETITION
Serial No.: 10/055,521
Filed: January 23, 2002

For: GOLF BALLS COMPRISING A PLASTICIZED POLYURETHANE

This is a decision on the petition received on December 15, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed February 19, 2002. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned April 22, 2002. A notice of abandonment was mailed on December 12, 2003.

On December 15, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the application was completed at the time of filing.

The evidence submitted is sufficient to establish that the application was complete at the time of filing and the Notice to File Missing Parts issued on February 19, 2002 was in error.

The petition is hereby GRANTED.

The application has been completed for release to Technology Center 1713.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

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OFFICE OF PETITIONS

In re Application of :
Donald Felt KIMBALL et al. :
Application No. 10/055,523 : DECISION ON PETITION
Filed: January 23, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 4740-039 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 22, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---,

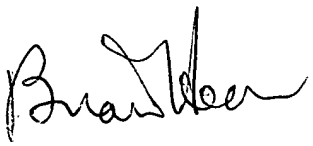
filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. The amendment filed August 22, 2005 fails to identify one of the prior-filed applications by application number (consisting of the series code and serial number) and further fails to set forth the entire priority claim in the first sentence of the specification.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment or an Application Data Sheet (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) which state the relationship of the prior-filed application to this application and identify the prior-filed applications by application number are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to David Bucci at (571) 272-7099.



Brian Hearn
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Donald Felt KIMBALL et al. :
Application No. 10/055,523 : DECISION ON PETITION
Filed: January 23, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 4740-039 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed November 7, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed 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 Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

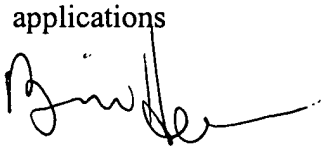
The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the

benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether 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 applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2817 for appropriate action on the amendment filed November 7, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications



Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 6

TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON MA 02110

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JUN 2 8 2002

OFFICE OF PETITIONS

In re Application of :
Zillies, et al. :
Application No. 10/055,565 : LETTER
Filed: October 26, 2001 :
Attorney Docket No. MIT-051CN2 :

This is a letter in response to the paper entitled, "RESPONSE TO NOTICE TO FILE CORRECTED APPLICATION PAPERS," filed April 1, 2002 (certificate of mailing date March 21, 2002) requesting that pages 7 and 9 submitted on April 1, 2002 (certificate of mailing date March 21, 2002) be accorded a filing date of October 26, 2001.

The application was filed on October 26, 2001. On March 4, 2002, the Office of Initial Patent Examination mailed a Notice to File Corrected Application Papers stating that pages 7 and 9 of the specification appeared to have been omitted. In addition, the Notice required submission of substitute drawings in compliance with 37 CFR 1.84.

In response to the Notice, petitioners timely filed 13 pages of substitute drawings and a paper entitled, " RESPONSE TO NOTICE TO FILE CORRECTED APPLICATION PAPERS" (Response). The Response states two possible grounds for granting the requested October 26, 2001 filing date to pages 7 and 9 of the specification.

First, petitioners state that a stamped return receipt postcard is evidence that pages 7 and 9 were filed on October 26, 2001. A thorough review of the application file did not uncover the stamped return receipt postcard. It is noted that petitioners are reserving their right to petition. If petitioners wish to rely on postcard practice, rather than incorporation by reference, to obtain an October 26, 2001 filing date for pages 7 and 9, a copy of the postcard should be submitted, as well as the $130.00 petition fee, which will be refunded if it is shown that pages 7 and 9 were present upon filing.

Second, petitioners request that pages 7 and 9 of the specification be accorded a filing date of October 26, 2001 because the above-identified patent application is a divisional of application no.09/324,137 and the entire contents of application no. 09/324,137 was specifically incorporated by reference into the above-identified application when the above-identified application was filed.

Petitioners are correct in that the Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted.

MPEP 201.06(c) 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)

Pages 7 and 9 submitted with the petition will not be entered at this time. The original application papers will include only those application papers present on the date of deposit.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 26, 2001, using only the application papers filed on October 26, 2001.

Thereafter, the application will be forwarded to the appropriate group art unit for consideration by the examiner of the RESPONSE TO NOTICE TO FILE CORRECTED APPLICATION PAPERS, as an amendment requesting the entry of pages 7 and 9. The pages will be reviewed by the examiner for new matter. See MPEP 608.02(a).

Telephone inquiries should be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Boston MA 02111

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OFFICE OF PETITIONS

In re Application of	:	
Esha A. Gangolli et al.	:	
Application No. 10/055,569	:	DECISION GRANTING
Filed: October 26, 2001	:	PETITION
Attorney Docket No. 21402-191 (Cura 491)	:	
Title: NOVEL HUMAN PROTEINS, POLYNUCLEOTIDES ENCODING THEM AND METHODS OF USING THE SAME	:	

This is a decision on the "Petition for Reconsideration of Notice of Omitted Items under 37 CFR §1.53(e)", filed June 7, 2002, which is properly treated as a petition under 37 CFR §1.53(b), requesting pages 31, 45, 56, and 138 of the specification be accorded a filing date of October 26, 2001 as part of the original disclosure.

On October 26, 2001, the above-identified application was filed. On April 9, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of October 26, 2001, and advising applicant that pages 31, 45, 56, and 138 of the specification appeared to have been omitted. The Notice also stated that the oath or declaration was unsigned, and the $130 fee associated with the late filing of an oath or declaration would be required[1]. The Notice further indicated that a substitute specification would be required, as well as an initial computer readable form (CRF) copy of the

1 This fee was received on August 9, 2002, along with a two-month extension of time. It should be noted that a copy of the executed oath or declaration has not been received.

sequence listing, an amendment directing its entry, and a statement as to its content[2].

In response, on June 7, 2002, applicants filed the present petition. The petition is further accompanied by a substitute specification, and a copy of applicants' postcard receipt acknowledging receipt of a 238 page specification in the United States Patent and Trademark Office (Office) on October 26, 2001. Applicants request that pages 31, 45, 56, and 138 of the specification be accorded a filing date of October 26, 2001.

Upon review of the record, the above-mentioned pages have not been located among the application papers. However, the evidence is convincing that the application papers deposited on October 26, 2001 included pages 31, 45, 56, and 138 of the specification and these pages were subsequently misplaced in the Office.

Therefore, the application, including pages 31, 45, 56, and 138 of the specification was complete on filing and entitled to a filing date of October 26, 2001 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The Notice mailed April 9, 2002 was sent in error and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of $130 will be refunded to petitioner's Deposit Account.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 26, 2001 as part of the original disclosure, using the original application papers filed on that date, as well as pages 31, 45, 56, and 138 of the specification submitted on June 7, 2002.

Any inquiries related to this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

2 To date, neither the CRF, the amendment, nor the statement have been received.

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Paper No. 5

John A. Caccuro
9 Ladwood Drive
Holmdel, NJ 07733

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MAR 2 4 2003

OFFICE OF PETITIONS

In re Application of
Dragone
Application No. 10/055,587
Filed: January 22, 2002
Attorney Docket No. 70

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 17, 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 April 2, 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 June 3, 2002. A Notice of Abandonment was mailed on February 27, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to the Office of Initial Patent Examination.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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TRIBUTE TOWER
409 13TH STREET
11TH FLOOR
OAKLAND, CA 94612-2607

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OFFICE OF PETITIONS

In re Application of	:	
Roland E. Williams	:	
Application No. 10/055,594	:	DECISION ON PETITION
Filed: January 22, 2002	:	
Attorney Docket No. P2180	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 2, 2008, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 25, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 26, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2), runs from the date of this decision.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2626 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

April M. Wise
Petitions Examiner
Office of Petitions

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Synnestvedt & Lechner LLP
2600 Aramark Tower
1101 Market Street
Philadelphia, PA 19107-2950

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MAY 2 4 2005

OFFICE OF PETITIONS

In re Application of
Hengelmolen et al.
Application No. 10/055,611
Filed: October 29, 2001
Attorney Docket No. 17,684 A
For: Ferrule

DECISION ACCORDING
STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed August 5, 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.

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 Office of Publications will be informed of the instant decision so that steps may be taken to issue the application as a patent.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700.

Mailed: 12/19/05

rvk
Paper No. _____

In re application of:
Wolfgang Anderheggen et al
Serial No.: 10/055,652
Filed: January 23, 2002
For: A PROCESS AND AN APPARATUS FOR THE SEPARATION OF OIL FROM CHOPPED ELASTANE FIBERS WHICH CONTAIN PREPARATIONS :

: DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed February 27, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of January 05, 2004, for failure to timely file a proper response to the Office letter dated July 23, 2003 be withdrawn. The petitioner asserts that applicants timely filed a proper response and a Petition for Extension of Time on December 18, 2003.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicants did file the proper response to the Office letter of July 23, 2003 in a timely manner. The evidence provided includes: 1) a copy of the Response to the Office letter of July 23, 2003 with a Certificate of Facsimile Transmission dated December 18, 2003 ; 2) a copy of the Petition for Three Months Extension of Time with a Certificate of Facsimile Transmission dated December 18, 2003 ; 3) a copy of the FAX COVER SHEET ; and 4) a copy of the Auto-Reply Facsimile Transmission confirming receipt of the Response and Petition for Extension of Time by the USPTO dated December 19, 2003.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application will be forwarded to the Technical Support Staff for entering of the Response dated December 18, 2003 and then forwarded to the examiner for prompt consideration.

The Petition is **GRANTED.**

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

NORRIS McLAUGHLIN & MARCUS, P.A.
220 EAST 42nd STREET, 30th Floor
NEW YORK, NY 10017

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Paper No. 17

BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

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APR 19 2004

OFFICE OF PETITIONS

In re Patent No. 6,670,384 :
Issue Date: December 30, 2004 :
Application No. 10/055,653 : DECISION ON PETITION
Filed: January 23, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. LD0284 NP :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 16, 2004, to withdraw the above-identified application from issue and on the subsequent petition, filed February 26, 2004 withdrawing the petition filed January 16, 2004.

The petition is dismissed as moot since, as noted in the petition filed on February 26, 2004, the application had already issued into Patent No. 6,670,384 on December 30, 2003.

Since this application had already issued into a patent prior to the filing of the instant petition to withdraw from issue, the concurrently filed request for continued examination (RCE) is improper and will not be processed. In view thereof, the $770 filing fee submitted therefor, as well as the petition fee of $130, will be credited to petitioner's deposit account in due course.

The Information Disclosure Statement, as well as the concurrently filed amendment, has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

The patented file is being forwarded to Files Repository.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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COMMISSIONER FOR PATENTS
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SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
P-105,325	1/23/02	CHE-H. HSU	PE0672

Title:
AQUEOUS CONDUCTIVE DISPERSIONS OF POLYANILINE HAVING ENHANCED VISCOSITY

Art Unit	Paper Number

Correspondence Address:
CHEN WANG
E.I. DUPONT DE NEMOURS AND COMPANY
LEGAL-PATENTS
1007 MARKET STREET
WILMINGTON, DE 19898

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: 528,165

Grant Date: 24-Jan-02

P-105,325 is in correspondence with serial number 10/055,669

Approved:

for Commissioner of Patents and Trademarks

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such aplication or applications.

This license is granted under 37 CFR 5.15(a)

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminstration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

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DAHNA S. PASTERNAK
ROBINS & PASTERNAK LLP
1731 EMBARCADERO ROAD, SUITE 230
PALO ALTO, CA 94303

In re Application of	:
JAMIESON et al	:Decision on Petition
Serial No.: 10/055,713	:
Filed : 22 January 2002	:
Attorney Docket No.: 8325-0026	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 25 September 2006. The delay in acting upon this petition is regretted.

BACKGROUND

The petition filed under 37 CFR 1.144 requests reconsideration of the restriction requirement mailed 5 May 2005. The restriction requirement mailed 5 May 2005 divided the pending claims 1-4, 6-11, 14, 17-19 and 21-23 into 18 groups.

Applicants elected Group IX with traverse. The examiner considered the traversal and made the restriction requirement final in the Office action mailed 25 August 2005. This petition was filed 25 September 2006, before the filing of a Notice of Appeal and is thus considered timely.

DISCUSSION

The petition and file record have been considered carefully. A review of the file shows that Applicants are petitioning the second of two restriction requirements made in this application.

The first restriction requirement divided claims 1-20 into eleven groups. Applicants elected one of the inventions, with traverse and canceled claim 20. In the first Office action on the merits mailed 6 October 2003, the examiner withdrew the restriction requirement, as follows:

> Applicant's election with traverse of Group X, filed July 14, 2003, is acknowledged.
>
> Upon further consideration the restriction requirement is withdrawn. Claims 1-19 are examined in the instant office action.

Claims 1-19 were examined on the merits in the first Office action mailed 6 October 2003 and in the final Office action mailed 8 March 2004.

A comparison of claims which had already been examined shows that the current claims are not directed to patentably distinct inventions from those which had already been examined together.

Relevant claims, pending on 17 December 2003.

1. (currently amended) A non-naturally-occurring protein comprising a modified plant zinc finger protein (ZFP), wherein the zinc finger protein is engineered to bind ~~that binds~~ to a target sequence.

17. (currently amended) An isolated polynucleotide encoding a modified plant zinc finger protein according to claim 1 ~~that binds to a target sequence~~.

18. (original) An expression vector comprising the isolated polynucleotide of claim 17.

19. (original) A host cell comprising the isolated polynucleotide of claim 17.

14. (previously presented) The isolated polynucleotide of claim 17 further encoding a functional domain.

Relevant claims, pending on 18 August 2006

1. (currently amended): A non-naturally-occurring protein comprising

a modified plant zinc finger protein (ZFP), the modified plant ZFP having a modified amino acid sequence as compared to a naturally occurring plant ZFP and comprising a tandem array of a plurality of zinc fingers, each zinc finger comprising a recognition region and a backbone region, wherein

(i) there are between about 5 and 50 amino acids in the backbone region of each zinc finger ~~and wherein the backbone region is not derived from *zif268* or *Xenopus* TFIIIA~~; and

(ii) the modified plant zinc finger protein is engineered to bind to a target sequence.

17. (previously presented) An isolated polynucleotide encoding a modified plant zinc finger protein according to claim 1.

18. (original) An expression vector comprising the isolated polynucleotide of claim 17.

19. (original) A host cell comprising the isolated polynucleotide of claim 17.

14. (previously presented) The isolated polynucleotide of claim 17 further encoding a functional domain selected from the group consisting of p300, CBP, PCAF,SRC1 PvALF, ERF-2, OsGAI, HALF-1, C1, AP1, ARF-5, ARF-6, ARF-7, ARF-8, CPRF1, CPRF4, MYC-RP/GP, and TRAB1.

MPEP 803 discusses the two criteria for a proper requirement for restriction between patentably distinct inventions:

> (A) The inventions must be independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); and
> (B) There would be a serious burden on the examiner if restriction is not required (see MPEP § 803.02, § 808, and § 808.02).

Because the Office has already examined together in two separate Office actions on the merits, the subject matter which is now being restricted, the Office cannot establish a showing of serious burden. Without a showing of burden, restriction is not proper.

DECISION

For this reason, the petition filed under 37 CFR 1.144 is **GRANTED**.

The finality of the Office action mailed 16 May 2006 has been withdrawn. The application will be forwarded to the Examiner to consider papers filed since the final Office action and for action consistent with this decision.

Should there be any questions regarding this decision, please Quality Assurance Specialist/Program Manager Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 571-273-8300.

George E. Elliott

George Elliott
Director, Technology Center 1600

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Paper No. 6

Donald L. Brownewell
504 Abney Street
Saint Albans, WV 25177

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DEC 2 4 2002

OFFICE OF PETITIONS

In re Application of
Donald L. Brownewell
Application No. 10/055,738
Filed: January 25, 2002
Attorney Docket No. N/A

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed Decemer 10, 2002, to revive the above-identified application.

The petition is Granted.

The application became abandoned for failure to reply in a timely manner to the Office action mailed February 19, 2002, which set a reply period of (2) Two Months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) have been obtained. Accordingly, the application became abandoned on April 20, 2002.

Telephone inquiries concerning this matter may be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

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JJGJR.: 02-06

Paper No: __

DONALD L. BROWNEWELL
431 62ND STREET
HOLMES BEACH FL 34217

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FEB 13 2006

OFFICE OF PETITIONS

In re Application of :
Brownewell :
Application No.: 10/055,738 :
Filing Date: 23 January, 2002 :
Attorney Docket No. (None) :

DECISION

This is a decision on the petition filed on 20 December, 2004 (but the file was not received into the Office of Petitions until this writing), and considered as a request for the withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)."

(It is noted, however, that Petitioner may be unable to present a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.

(3) Petitioner should consult the Manual of Patenting Examining Procedure as to Status Inquiries (MPEP §203.08: see: http://www.uspto.gov/web/offices/pac/mpep/documents/0200_203_08.htm#sect203.08).

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to an Office action (Restriction) mailed on 9 June, 2004, with reply due absent extension of time on or before 9 July, 2004;
- the application went abandoned after midnight 9 July, 2004;
- Petitioner indicates that he prepared (and may have mailed) a reply before the due date, however, the materials were not mailed under the provisions of 37 C.F.R. §1.8 (see: http://www.uspto.gov/web/offices/pac/mpep/documents/appxr_1_8.htm#cfr37s1.8), or 37 C.F.R. §1.10 (see: http://www.uspto.gov/web/offices/pac/mpep/documents/appxr_1_10.htm#cfr37s1.10), and apparently the materials were not received by the Office;
- moreover, Petitioner apparently did not submit his materials with a receipt card (see: MPEP §503[1]);

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

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). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. 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

- therefore, it is unlikely that Petitioner can make a showing as required (and discussed below).

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

---

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.

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 post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

[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, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the

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[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

* * *

Thus, Petitioner has not satisfied the showing requirements described above.

CONCLUSION

Because Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**.

ALTERNATIVE VENUE

Petitioner's only alternative to irretrievable abandonment is a petition alleging unavoidable delay under 37 C.F.R. §1.137(a) or unintentional delay under 37 C.F.R. §1.137(b).[9]

Petitioner may wish to file such a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form provided and available online.)

Further correspondence with respect to this matter should be addressed as follows:[10]

By mail: Commissioner for Patents[11]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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[9] The regulations at 37 C.F.R. §1.183 sets forth that waiver of the rules is "subject to such other requirements as may be imposed."

[10] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[11] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Encl: Forms: Petitions alleging unavoidable delay under 37 C.F.R. §1.137(a) and unintentional delay under 37 C.F.R. §1.137(b)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 08-02

Paper No. 5

CARL L. JOHNSON
JACOBSON AND JOHNSON
SUITE 285
ONE WEST WATER STREET
ST. PAUL MN 55107-2080

COPY MAILED

AUG 3 0 2002

OFFICE OF PETITIONS

In re Application of	:	
Monson et al.	:	
Application No. 10/055,752	:	DECISION DISMISSING
Filed: 23 January, 2002	:	PETITION
Attorney Docket No. 5591 EA-00059	:	

This is a decision in reference to the paper styled "Petition Regarding Notice of Omitted Item" filed on 23 July, 2002, which is treated as a petition requesting that the above identified application be accorded a filing date of 23 January, 2002, with four (4) sheets of drawings as a part of the original disclosure.

The petition is **dismissed**.

The application was filed on 23 January, 2002. On 18 June, 2002, however, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings. A two (2)-month period for reply was set. In response, on 23 July, 2002 (certificate of mailing date 18 July, 2002), petitioners filed four (4) sheets of drawings, and the present petition.

Petitioner argues that four (4) sheets of drawings were filed on 23 January, 2002. In support, a copy of petitioners' postcard receipt was provided with the present petition. The postcard bears an Office date stamp of 23 January, 2002, and the above identified application number. The postcard itemizes the filing of, *inter alia*, "[x] Drawings ___ ".

The petition is dismissed because the postcard does not properly itemize the filing of four (4) sheets of drawings. As the number of sheets of drawings present on filing is not itemized on the postcard, it is not possible to determine which, if any, of the

sheets of drawings filed with the present petition were present on filing. The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard.[1] 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).[2]

As petitioners have presented no convincing evidence that four (4) sheets of drawings were present on filing, the petition is dismissed.

Nevertheless, it has been PTO practice to treat an application that contains at least one process, method, or composition claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[3] A review of the record reveals that Claims 17-25 are method claims. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

The application will be processed and examined using only the papers present on filing on 23 January, 2002. The four (4) sheets of drawings supplied on 23 July, 2002, will not be used for processing or examination, but will be retained in the file.

As the application was complete on 23 January, 2002, for filing date purposes, the present petition was necessitated by USPTO error. No petition fee is due and none has been paid.

The application is forwarded to the Office of Initial Patent Examination for further processing with a filing date of 23 January, 2002, using the application papers filed on that date. Thereafter, the application will be forwarded to Technology Center 3700 for examination in due course.

---

[1] MPEP 503.

[2] Id.

[3] MPEP 601.01(f).

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CARL JOHNSON
ONE WEST WATER STREET, SUITE 285
ST. PAUL, MN 55107

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NOV 04 2004

OFFICE OF PETITIONS

In re Application of :
Robert James Monson et al :
Application No. 10/055,752 :
Filed: January 23, 2002 :
Attorney Docket No. 5591 EA-00059 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 16, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed May 26, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 27, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to the Publishing Division.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Robert C. Kowart
Conley, Rose & Tayon, P.C.
P.O. Box 398
Austin, TX 78767-0398

MAILED

DEC 01 2006

Technology Center 2100

In re Application of: Traversat, et al.
Application No. 10/055,773
Attorney Docket No. 5681-06800
Filed: 1/22/2002
For: PEER-TO-PEER COMPUTING ARCHITECTURE

) DECISION ON PETITION FOR
) SUPERVISORY REVIEW REGARDING
) FINALITY OF RESTRICTION
) REQUIREMENT UNDER 37 CFR
) §1.144

This is in response to the petition filed on June 16, 2006, under 37 CFR 1.144 requesting supervisory review of the finality of a restriction requirement made in the non-final Office action mailed on January 12, 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) A restriction requirement was mailed on October 11, 2005, in which claims 1-116 were subject to restriction requirement.

(2) On November 16, 2005 (certificate of mailing on November 14, 2005) a response to the restriction requirement was filed in which applicant provisionally elected with traverse. Applicant provided reasons in support of the traversal, including a discussion of M.P.E.P. §§ 806.05(c) and 808 regarding a proper restriction disclosed between combination and subcombination inventions.

(3) On January 12, 2006, the Examiner issued a first office action on the merits, in response to Applicant's election, wherein claims 1-51, 77-96 & 101-113 were withdrawn. This office action determined the requirement for restriction to be proper and therefore made the requirement FINAL.

(4) On April 17, 2006, an amendment and remarks were filed.

(5) On June 16, 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 October 11, 2005 (made final in the non-final Office action of January 12, 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.<

And finally, M.P.E.P. § 806.05(a) sets forth:

> A combination is an organization of which a subcombination or element is a part. The burden is on the examiner to suggest an example of separate utility. If applicant proves or provides an argument, supported by facts, that the utility suggested by the examiner cannot be accomplished, the burden shifts to the examiner to document a viable separate utility or withdraw the requirement.

The Office action of October 11, 2005 identifies two groups or sets of claims and their indicated classification i.e. Group I, claims 1-52, 77-96 & 101-113 (drawn to "computer-to-computer protocol implementing") in class 709 subclass 230 and Group II, Claims 53-76, 97-100 & 114-116 (drawn to "distributed data processing") in class 709 subclass 201. The Office action then identifies the claims of Group I and Group II as being related as combination and subcombination wherein, in the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because "it distinctly relates protocol implementing" and the subcombination has separate utility "such as distributed data processing." Thus the Office action provides the reasons why each invention as claimed is deemed to be independent and distinct from the other, however, the Office action fails to provide the reasons why there would be a serious burden on the examiner if the restriction is not required. Form paragraphs 8.21.01 – 8.21.03 may be used as appropriate to explain why there would be a serious burden on the examiner if the restriction is not required.

In addition, consistent with Petitioner's remarks, at least some of the claims appear to be misidentified. Note, claim 36 (identified in Group I) and claim 53 (identified in Group II) both appear to be directed to similar inventions, i.e. a "single peer node" comprising "one or more network interfaces" and thus, do not appear to relate as ***combination*** and ***subcombination***. In addition, claim 55, identified by the Examiner as a ***subcombination*** claim of Group II, is directed to a "peer computing system" comprising "a plurality of peer nodes". A system claim with an organization of parts or elements is generally representative of a combination-type claim (see M.P.E.P. § 806.05(a)).

Thus, and in accordance with M.P.E.P. §§ 806.05(a), 808 and 808.01, the election by original presentation restriction requirement of October 11, 2005, appears to misidentify claims into the two groupings and is incomplete, and therefore deemed to be improper.

The petition is **GRANTED**.

The application is being forwarded to the Technology Support Staff to **ENTER** the response filed April 17, 2006 and then **FORWARD** to the Examiner for appropriate action i.e. consideration of the amendment and claims consistent with this decision.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/06/2006

TO SPE OF : ART UNIT 1700 (1771)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,709,994

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

***Ok to delete as req. in COCIN in Madras?**

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:

Editorial in nature. changes approved

SPE

1771
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 8

WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

COPY MAILED

JAN 13 2003

OFFICE OF PETITIONS

In re Application of :
Robert Beck and Paul Manos :
Application No. 10/055,799 : DECISION ACCORDING STATUS
Filed: October 25, 2001 : UNDER 37 C.F.R. §1.47(a)
Attorney Docket No. WOW-002XX :
Title: 2,4,-HEXADIENOIC ACID, ITS :
ALKALI SALTS AND/OR DERIVATIVES FOR:
PREVENTING OXIDATIVE CORROSION OF :
METALS :

This is in response to the Petition under 37 C.F.R. §1.47(a), filed June 13, 2002 (certificate of mailing May 29, 2002). This petition was recently forwarded to the Office of Petitions for consideration.

The petition is **GRANTED**.

The above-identified application was filed on October 25, 2001, with an unexecuted declaration and missing the statutory basic filing fee. Robert Beck and Paul Manos were named as joint inventors. Accordingly, on March 29, 2002, applicants were mailed a "Notice to File Missing Parts of Application," requiring the missing items and a surcharge for late filing. This Notice set a period for reply of two months from the mailing date of the notice, with extensions of time obtainable under §1.136(a).

In response, rule 47 applicant timely filed *inter alia* a declaration executed by joint inventor Manos on behalf of himself and on behalf of nonsigning inventor Beck, with the instant petition (and fee); the surcharge for late filing under 1.16(e); and the outstanding fees. Rule 47 applicant maintains that status under §1.47(a) is proper because inventor Beck has refused to join in the application after having been presented with the application papers.

In support thereof, applicant submitted the declaration of attorney Holliday C. Heine, Ph.D., detailing the circumstances of inventor Beck's refusal to sign the declaration for patent. Applicants further submitted copies of: the cover letter transmitting the declaration (and application papers) to the nonsigning inventor; and a letter in response from the nonsigning inventor. On petition, Dr. Heine specifically states that a copy of the application was presented to the inventor along with the declaration, and that inventor Beck did not execute and return the declaration as instructed. The inventor's letter further supports a conclusion that inventor Beck refuses to join in the application.

Having considered the evidence, it is concluded that applicants have shown that inventor Beck has refused to join in the application. The declaration filed June 13, 2002, and the petition have been reviewed and found in compliance with 37 C.F.R. §§1.63 and 1.47(a). The petition includes payment of the petition fee and a statement of the last known address of inventor Beck.

In view thereof, this application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 11

FROST BROWN TODD LLC
2200 PNC Center
201 E. Fifth Street
Cincinnati, OH 45202-4182

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JUL 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Steven D. Green, et al. :
Application No. 10/055,800 : ON PETITION
Filed: October 26, 2001 :
Attorney Docket No. BT00PCO/00E6100 :

This is a decision on the petition, filed July 27, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 23, 2004, using a Certificate of Mailing under 37 CFR 1.8 dated June 21, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center AU 3661 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www. uspto. gov

Paper No. 12

Date : July 28, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Steven D. Green, et al.
Application No. : 10/055,800
Filed : October 26, 2001

The above-identified application has been assigned Patent No. 6,775,592 and an issue date of August 10, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 10, 2004:

> "All reference to Patent No. 6,775,592 to STEVEN D. GREEN, ET AL. of INDIANA for ELECTRONICALLY CONTROLLED VEHICLE LIFT AND VEHICLE SERVICE SYSTEM appearing in the Official Gazette of August 10, 2004, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite ll00 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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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SMITHKLINE BEECHAM CORPORATION
CORPORATE INTELLECTUAL PROPERTY-US, UW2220
P. O. BOX 1539
KING OF PRUSSIA, PA 19406-0939

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JUL 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Philip Christopher Buxton, et al. :
Application No. 10/055,817 :
Filed: January 23, 2002 :
Attorney Docket No. P32875-1 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 7, 2009, to revive the above-identified application.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed February 11, 2005, and a three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on July 12, 2005. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

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).

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/203,573.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Technology Center.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

HOWREY SIMON ARNOLD & WHITE
ATTEN. DOCKETING DEPT. (A)
750 BERING DRIVE
HOUSTON, TX 77057

COPY MAILED

MAR 22 2004

OFFICE OF PETITIONS

In re Application of :
Kylam D. Doan et al :
Application No. 10/055,818 : NOTICE
Filed: October 25, 2001 :
Attorney Docket No. 11564.0028. NPCS02 :
(LBRE.08) :

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 Change of Correspondence Address filed March 5, 2004 is noted and made of record.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being referred to the Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

ALISON KESSLER
GOODWIN PROCTER LLP
COUNSELLORS AT LAW
SEVEN BECKER FARM ROAD
ROSELAND NJ 07068

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DEC 15 2003

OFFICE OF PETITIONS

In re Application of
Vokmar Schwitzky, et al.
Application No. 10/055,822
Filed: January 23, 2002
Attorney Docket No.103797-238-NP

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 20, 2003, to revive the above-identified application.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed September 10, 2002. 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). Since the amendment submitted with the present petition does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE or the filing of a continuing application. See the attached Advisory Action.

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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: 2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

By Fax: (703) 872-9306

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the extension of time included with the response filed pursuant to 37 CFR 1.8 on November 13, 2003, was subsequent to the maximum extendable period for reply, the extension fee is unnecessary and will be credited to petitioner's deposit account.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed the undersigned at (703) 305-9220.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Advisory Action

cc:

EVA TAN
GOODWIN PROCTER LLP
COUNSELLORS AT LAW
103 EISENHOWER PARKWAY
ROSELAND NJ 07068

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

JACQUELINE S LARSON
P O BOX 2426
SANTA CLARA CA 95055-2426

COPY MAILED

JUL 17 2002

OFFICE OF PETITIONS

In re Application of
Soane, et al.
Application No. 10/055,837
Filed: October 26, 2001
Attorney Docket No. ALNS-002PN
For: MOLECULAR COMPOUNDS HAVING COMPLEMENTARY SURFACES TO TARGETS

: DECISION GRANTING
: PETITION

This is a decision on the petition, filed May 17, 2002 (certificate of mailing date May 7, 2002), requesting, in effect, withdrawal of the April 23, 2002 Notice Of Omitted Item(s) in a Nonprovisional Application (Notice) . The petition will be treated under 37 CFR 1.53(e).

The application was deposited on October 26, 2001. On April 23, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that drawing figures 18a-b, 19 a-b, 20b, 28, 29 41 and 44 described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that drawing figures 18a-b, 19 a-b, 20b,28, 29, 41 and 44 be accorded a filing date of October 26, 2001 on the basis that 31 sheets of drawing figures, including drawing figures 18a-b, 19 a-b, 20b,28, 29, 41 and 44, 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 31 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 31 sheets of drawing figures, including drawing figures 18a-b, 19 a-b, 20b,28, 29, 41 and 44, were filed on October 26, 2001. MPEP 503. Accordingly, the request is granted.

The $130.00 petition fee will be refunded to petitioners' credit card.

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 drawing figures 18a-b, 19 a-b, 20b,28, 29, 41 and 44 submitted with the instant petition. Office records will be corrected to show that 31 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

#10
DW

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OFFICE OF THE DIRECTOR
TC 3600

CARRIER BLACKMAN AND ASSOCIATES
24101 NOVI ROAD
SUITE 100
NOVI, MI 48375

In re Application of :
Takeshi Kai et al. :
Application No. 10/055,844 : DECISION ON PETITION
Filed: January 23, 2002 : TO WITHDRAW THE
For: AIR BAG APPARATUS FOR SIDE CRASH : HOLDING OF ABANDONMENT

This is in reply to applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on February 17, 2004.

The petition is **DISMISSED**.

A review of the file record reveals that a Notice of Abandonment was mailed February 6, 2004 because of applicants' failure to reply to the non-final Office action of July 8, 2003.

Petitioner states that a response to the non-final Office action was filed on October 8, 2003 by facsimile transmission. The copy of the response submitted with the petition includes a Certificate of Transmission dated October 8, 2003.

Any petition to withdraw the holding of abandonment based upon a Certificate of Transmission by facsimile must provide the following:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the original response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above, the petition fails under requirement (2) to provide a proper statement under 37 CFR 1.8(b)(3) attesting to personal knowledge of sending the original response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/mjz: 5/27/04

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AUG 16 2004

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AUG 16 2004

OFFICE OF THE DIRECTOR
TC 3600

Carrier Blackman and Associates
24101 Novi Road
Suite 100
Novi, MI 48375

In re Application of
Takeshi Kai et al.
Application No. 10/055,844
Filed: January 23, 2002
For: AIR BAG APPARATUS FOR SIDE CRASH

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in reply to applicant's renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on July 19, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on October 8, 2003. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

SNM/vdb:8/9/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

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Paper No. 9

MICHAEL A. SHIPPEY PH.D.
20754 IVY CIRCLE
YORBA LINDA, CA 92887

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JUN 12 2003

OFFICE OF PETITIONS

In re Application of :
Teresa R. Fleischhacker :
Application No. 10/055,853 : ON PETITION
Filed: March 25, 2002 :
Attorney Docket No. 160.04-P-USA :

This is a decision on the petition under 37 CFR 1.137(b), filed June 6, 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 30, 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 December 1, 2002.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 3644.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. None

Ivan S. Kavrukov
Cooper & Dunham LLP
1185 Avenue of the Americas
New York NY 10036

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JUL 17 2006
OFFICE OF PETITIONS

In re Application of :
Hiroshi Tamura :
Application No. 10/055,861 : DECISION ON PETITION
Filed: January 23, 2002 : UNDER 37 C.F.R. §1.181(A)
Attorney Docket Number: :
2271/66438 :
Title: METHOD AND APPARATUS FOR :
IMAGE COMMUNICATIONS CAPABLE OF :
EFFECTIVELY PERFORMING RECEIPT :
ACKNOWLEDGEMENT :

This is a decision on the petition filed May 5, 2006, under 37 C.F.R. §1.181(a), to withdraw the holding of abandonment.

Background

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed October 28, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue or publication fees[1]. Accordingly, the above-identified application became abandoned on January 29, 2006. A Notice of Abandonment was mailed on March 31, 2006.

ANALYSIS

With the present petition, Petitioner has alleged that the mailing was not received. 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 attest to the fact that a search of the file jacket and docket records indicates that the

1 See MPEP §710.02(e).

Office communication was not received. In addition, 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[2].

Petitioner has met the requirements of Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971), in that it has been asserted that both the file jacket and the docket record have been searched, and a copy of the latter has been included.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the mailing was not received.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will mail a new Notice of Allowance and Issue Fee Due. The three-month non-extendable time period for submitting the issue and publication fees will be set to run from the mailing date of the Office action.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

2 See MPEP 711.03(c).

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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AUG 15 2008

OFFICE OF PETITIONS

In re Application of :
ENGLER, et al. :
Application No. 10/055,863 : DECISION GRANTING PETITION
Filed: January 22, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 016930-000816US :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 13, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 23, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1623 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

[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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OFFICE OF PETITIONS

In re Application :
Heidrun Engler et al. :
Application No. 10/055,863 : DECISION ON APPLICATION
Filed: January 22, 2002 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 016930-000816US :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R.§ 1.705(b) filed December 22, 2008. Applicant requests that the determination of patent term adjustment be increased by 327 days to a total of three hundred fifty-nine (359) days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that 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 applicant is correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on August 13, 2008.

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is GRANTED to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is zero (0) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 29, 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 to date is 32 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee. Applicants dispute the entry of a period of reduction of 16 days for applicant's response to the non-Final Office Action mailed November 21, 2007. Applicants argue that the

---

[1] PALM records indicate that the issue fee payment was filed on December 22, 2008.

response was filed February 29, 2008 and calculate Applicant delay at 8 days, but the Office incorrectly calculates 16 days of applicants' delay. Applicants assert that the correct number of days of delay is 8 in accordance with 35 USC 154(b)(2)(C)(ii) and 37 CFR 1.704(b). Eight (8) days are at issue.

The reduction of 16 days has been found to be incorrect. A review of the application file reveals that, as stated by applicants, their response to the non-Final Office action mailed November 21, 2007, is of record in the application with a date of receipt by the Office of February 29, 2008. Thus, the Office should not assessed applicants a delay of sixteen (16) days. The period of reduction of 16 days is being removed and a period of reduction of 8 days is being entered.

A review of the record reveals additional bases for entry of periods of reduction for applicant delay. Specifically, 37 CFR 1.704(c) provides, in pertinent part, that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
>
> (ii) Four months; ...

In this instance, after the mailing of a Notice of Allowance on April 24, 2008, on July 22, 2008, applicants filed an amendment under 1.312. On September 29, 2008, the examiner mailed a Notice of Allowance in response to the amendment. Accordingly, pursuant to 37 CFR 1.704(c)(10), a period of reduction for applicant delay of 70 days, counting the number of days beginning on July 22, 2008 and ending on September 29, 2008, should have been entered.

Furthermore, on August 13, 2008, applicants filed a Petition to Withdraw from Issue, a Request for Continued Examination and an Information Disclosure Statement. A new

Notice of Allowance was mailed in response on September 29, 2008. The IDS did not include a §1.704(d) statement. These papers were filed after the mailing of the Notice of Allowance on April 24, 2008 and payment of the Issue Fee on July 23, 2008.

Accordingly, pursuant to 37 CFR 1.704(c)(10), a period of reduction for applicant delay is warranted. However, the period begins August 13, 2008 and ends September 29, 2008. As this period totally overlaps with the 70 day reduction discussed above, no further reduction pursuant to 37 CFR 1.704(c)(10) will be entered.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is (0) 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).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PALM Screen.

PTA Calculations for Application: 10/055863			
Application Filing Date:	01/22/2002	PTO Delay (PTO):	216
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	184
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-62		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
157	03/12/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		70	
156	02/24/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	8		
147	09/29/2008	MAIL NOTICE OF ALLOWANCE			
146	09/25/2008	ISSUE REVISION COMPLETED			
145	09/25/2008	DOCUMENT VERIFICATION			
144	09/25/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
143	09/25/2008	NOTICE OF ALLOWABILITY			
140	09/18/2008	WORKFLOW - QUERY REQUEST - FINISH			
139	08/13/2008	REFERENCE CAPTURE ON IDS			
138	08/13/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
137	09/09/2008	DATE FORWARDED TO EXAMINER			
136	08/13/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
135	09/09/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
134	08/21/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
133	08/18/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
132	08/13/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
131	08/13/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
130	08/15/2008	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
129	08/15/2008	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			

128	08/13/2008	PETITION ENTERED			
127	08/13/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
126	07/23/2008	ISSUE FEE PAYMENT VERIFIED			
125	07/23/2008	ISSUE FEE PAYMENT RECEIVED			
124	07/22/2008	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)			
123	06/20/2008	PUBS CASE REMAND TO TC			
122	06/24/2008	WORKFLOW - QUERY REQUEST - BEGIN			
121	04/28/2008	EXPORT TO INITIAL DATA CAPTURE			
120	04/24/2008	MAIL NOTICE OF ALLOWANCE			
120	04/24/2008	MAIL NOTICE OF ALLOWANCE			
119	04/23/2008	ISSUE REVISION COMPLETED			
119	04/23/2008	ISSUE REVISION COMPLETED			
118	04/23/2008	DOCUMENT VERIFICATION			
118	04/23/2008	DOCUMENT VERIFICATION			
117	04/23/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
117	04/23/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
116	04/23/2008	CASE DOCKETED TO EXAMINER IN GAU			
116	04/23/2008	CASE DOCKETED TO EXAMINER IN GAU			
115	04/23/2008	NOTICE OF ALLOWABILITY			
115	04/23/2008	NOTICE OF ALLOWABILITY			
111	02/29/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
111	02/29/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
110	02/29/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	108
110	02/29/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	108
109	03/21/2008	DATE FORWARDED TO EXAMINER			
109	03/21/2008	DATE FORWARDED TO EXAMINER			
108	02/29/2008	RESPONSE AFTER NON-FINAL ACTION		8	105
108	02/29/2008	RESPONSE AFTER NON-FINAL ACTION		8	105
107	02/29/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
107	02/29/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

106	02/29/2008	FILED			
106	02/29/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
105	11/21/2007	MAIL NON-FINAL REJECTION			
105	11/21/2007	MAIL NON-FINAL REJECTION			
104	11/19/2007	NON-FINAL REJECTION			
104	11/19/2007	NON-FINAL REJECTION			
101	10/21/2007	DATE FORWARDED TO EXAMINER			
101	10/21/2007	DATE FORWARDED TO EXAMINER			
100	10/12/2007	RESPONSE AFTER NON-FINAL ACTION			
100	10/12/2007	RESPONSE AFTER NON-FINAL ACTION			
99	09/10/2007	MAIL NON-FINAL REJECTION			
99	09/10/2007	MAIL NON-FINAL REJECTION			
98	09/04/2007	NON-FINAL REJECTION			
98	09/04/2007	NON-FINAL REJECTION			
97	07/26/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
97	07/26/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
96	07/26/2007	REFERENCE CAPTURE ON IDS			
95	07/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		3	92
94	07/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
93	07/25/2007	DATE FORWARDED TO EXAMINER			
92	07/23/2007	RESPONSE AFTER NON-FINAL ACTION			
91	04/23/2007	MAIL NON-FINAL REJECTION			
90	04/19/2007	NON-FINAL REJECTION			
89	04/18/2007	WORKFLOW - QUERY REQUEST - FINISH			
88	04/02/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
87	04/02/2007	REFERENCE CAPTURE ON IDS			
86.7	04/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
86	04/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
85	03/11/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
84	03/11/2007	REFERENCE CAPTURE ON IDS			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

83.7	03/12/2007	FILED			
83	03/12/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
82	03/16/2007	DATE FORWARDED TO EXAMINER			
81	03/11/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
80	03/16/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
79	03/12/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
78	02/14/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
77	02/12/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
76	01/23/2007	PUBS CASE REMAND TO TC			
75	01/31/2007	WORKFLOW - QUERY REQUEST - BEGIN			
74	01/25/2007	RECEIPT INTO PUBS			
73	12/27/2006	RECEIPT INTO PUBS			
72	12/21/2006	RECEIPT INTO PUBS			
71	12/15/2006	EXPORT TO INITIAL DATA CAPTURE			
70	12/12/2006	MAIL NOTICE OF ALLOWANCE			
69	12/04/2006	ISSUE REVISION COMPLETED			
68	12/04/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
67	12/04/2006	CASE DOCKETED TO EXAMINER IN GAU			
66	11/27/2006	NOTICE OF ALLOWABILITY			
65	10/27/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
64	11/14/2006	DATE FORWARDED TO EXAMINER			
63	10/27/2006	RESPONSE AFTER NON-FINAL ACTION		34	59
62	10/27/2006	REFERENCE CAPTURE ON IDS			
61.7	10/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
61	10/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
60	10/27/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
59	06/23/2006	MAIL NON-FINAL REJECTION			
58	06/21/2006	NON-FINAL REJECTION			
57	06/02/2006	DATE FORWARDED TO EXAMINER			
56	04/10/2006	RCE- AF PROCESSED			

55	06/02/2006	DATE FORWARDED TO EXAMINER			
54	06/01/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
53	06/02/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
52	06/01/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
51	04/27/2006	MAIL ADVISORY ACTION (PTOL - 303)			
50	04/25/2006	ADVISORY ACTION (PTOL-303)			
49	04/12/2006	PARALEGAL TD ACCEPTED			
48	04/11/2006	DATE FORWARDED TO EXAMINER			
47	04/10/2006	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
46	12/08/2005	NOTICE OF APPEAL FILED		64	44
45	12/08/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
44	07/05/2005	MAIL FINAL REJECTION (PTOL - 326)			
43	06/30/2005	FINAL REJECTION			
42	05/25/2005	DATE FORWARDED TO EXAMINER			
41	05/16/2005	RESPONSE AFTER NON-FINAL ACTION		64	39
40	05/16/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	12/13/2004	MAIL NON-FINAL REJECTION			
38	12/10/2004	NON-FINAL REJECTION			
37	12/10/2004	PARALEGAL TD ACCEPTED			
36	12/10/2004	PARALEGAL TD ACCEPTED			
35	12/07/2004	DATE FORWARDED TO EXAMINER			
34	11/29/2004	AMENDMENT AFTER FINAL REJECTION			
33	11/29/2004	MISCELLANEOUS INCOMING LETTER			
32	11/29/2004	TERMINAL DISCLAIMER FEE PAID			
31	11/29/2004	WORKFLOW INCOMING AMENDMENT IFW			
30	10/01/2004	MAIL FINAL REJECTION (PTOL - 326)			
29	09/30/2004	FINAL REJECTION			
28	09/09/2004	DATE FORWARDED TO EXAMINER			
27	08/30/2004	RESPONSE AFTER NON-FINAL ACTION		3	24
26.7	08/30/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	08/30/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

25	08/30/2004	WORKFLOW INCOMING AMENDMENT IFW			
24	05/27/2004	MAIL NON-FINAL REJECTION			
23	05/25/2004	NON-FINAL REJECTION			
22	05/19/2004	DATE FORWARDED TO EXAMINER			
21	05/06/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
20	05/06/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	05/06/2004	WORKFLOW INCOMING AMENDMENT IFW			
18	02/13/2004	MAIL RESTRICTION REQUIREMENT			
17	02/11/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
16	02/01/2004	CASE DOCKETED TO EXAMINER IN GAU			
15	12/13/2003	DATE FORWARDED TO EXAMINER			
14	11/26/2003	RESPONSE TO ELECTION / RESTRICTION FILED			
13	11/26/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
12	10/24/2003	MAIL RESTRICTION REQUIREMENT	216		-1
11	10/22/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
10	10/02/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	05/14/2002	X-PRE-LEGAL COMPLETE AMENDED CASE			
8	04/29/2002	PRELIMINARY AMENDMENT			
7	04/09/2002	X-PRE-LEGAL COMPLETE AMENDED CASE			
6	03/29/2002	PRELIMINARY AMENDMENT			
5	03/24/2002	CASE DOCKETED TO EXAMINER IN GAU			
4	03/05/2002	APPLICATION DISPATCHED FROM OIPE			
3	03/04/2002	APPLICATION IS NOW COMPLETE			
2	02/14/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/22/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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Commissioner for Patents
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Paper No. 5

KNOBBE, MARTEN, OLSON & BEAR, LLP
620 Newport Center Drive
Sixteenth Floor
Newport Beach, CA 92660

MAILED

SEP 26 2002

OFFICE OF DIRECTOR
GROUP

In re Application of :
Bernhard B. Sterling et al. :
Application No. 10/055,875 : DECISION ON PETITION
Filed: January 21, 2002 : TO MAKE SPECIAL
Attorney Docket No. OPTIS.039A :

This is a decision on the petition under 37 C.F.R. § 1.102, filed January 21, 2002, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) a petition fee of $130.00, (b) a statement that all claims are directed a single invention and an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, or professional searchers, etc., the field of search was also provided, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

For the above stated reasons, the petition is GRANTED.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the

next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,875	01/21/2002	Bernhard B. Sterling	OPTIS.039A	9479

20995 7590 11/12/2004

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER	
PUNNOOSE, ROY M	
ART UNIT	**PAPER NUMBER**
2877	

DATE MAILED: 11/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 110104

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of:	:	
Sterling ET AL.	:	PETITION FOR CORRECTION OF
Serial No.: 10/055,875	:	INVENTORSHIP
Filed: January 21, 2002	:	UNDER 37 CFR § 1.324
Attorney Docket No.: OPTIS.039A	:	

This is a decision on the petition filed January 22, 2004 to correct inventorship under 37 CFR 1.324.

The petition is granted.

In view of the papers filed May 10, 2004 it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48 (a). The inventorship of this application has been changed by deleting the names:

Heidi M. Smith
Jane J. Sheill
Martin J Fennell

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Gregory J. Toatley, Jr.
Supervisory Patent Examiner,
Art Unit 2877

OIPE JC139
SEP 2 5 2002
PATENT & TRADEMARK OFFICE

OBLON
SPIVAK
MCCLELLAND
MAIER
&
NEUSTADT
P.C.
ATTORNEYS AT LAW

ATTN: APPLICATION BRANCH

THIS IS A RESPONSE TO A NOTICE TO FILE MISSING PARTS OF AN APPLICATION

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

Re: Inventor: Ben Hui LIU
Serial No: 10/055,878
Filed: January 28, 2002
For: A FOUR DIMENSIONAL BIOCHIP DESIGN FOR HIGH THROUGHPUT APPLICATIONS AND METHODS OF USING THE FOUR DIMENSIONAL BIOCHIP

SIR:

Attached hereto for filing are the following papers:

-- Notice to File Missing Parts of Nonprovisional Application - Return copy
-- Filing of Declaration under 37 CFR 1.53(f)
-- Declaration, Power of Attorney and Petition - 2 pages, Executed
-- Information Disclosure Statement; PTO 1449 Form; (14) References
-- Request for Extension of Time (Five-Months)

Our check in the amount of **$1,960.00** is attached covering any required fees. In the event that any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 CFR 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 CFR 1.136 for the necessary extension of time. A duplicate of this sheet is enclosed.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Docket No. 215518US23

J. Derek Mason
Registration No. 35,270

Daniel J. Pereira, Ph.D.
Registration No. 45,518

22850
Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 12/01)

1755 JEFFERSON DAVIS HIGHWAY ▮ FOURTH FLOOR ▮ ARLINGTON, VIRGINIA 22202 ▮ U.S.A.
TELEPHONE: 703-413-3000 ▮ FACSIMILE: 703-413-2220 ▮ WWW.OBLON.COM

OIPE
SEP 25 2002
PATENT & TRADEMARK OFFICE

#3

Docket No. 215518US23

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Ben Hui LIU GAU:

SERIAL NO: 10/055,878 EXAMINER:

FILED: January 28, 2002

FOR: A FOUR DIMENSIONAL BIOCHIP DESIGN FOR HIGH THROUGHPUT APPLICATIONS AND METHODS OF USING THE FOUR DIMENSIONAL BIOCHIP

REQUEST FOR EXTENSION OF TIME UNDER 37 C.F.R. 1.136

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

It is hereby requested that a **five** month extension of time be granted to September 26, 2002 for

☐ filing a response to the Official Action dated:

☐ responding to the requirements in the Notice of Allowability dated:

☐ filing the Formal Drawings. The Issue Fee due has been timely filed.

☒ responding to the Notice to File Missing Parts of Application dated: February 26, 2002

☐ filing a Notice of Appeal. A timely response to the final rejection, due has been filed.

☐ filing an Appeal Brief. A Notice of Appeal was filed on:

☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee amount shown below is reduced by one-half.

The required fee of $1,960.00 is enclosed herewith by check and any further charges may be made against the Attorney of Record's Deposit Account No. **15-0030**. A duplicate copy of this sheet is enclosed.

09/26/2002 KZEWDIE 00000063 10055878
01 FC:128 1960.00 OP

Respectfully Submitted,

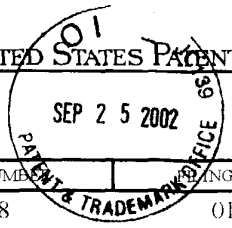
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

J. Derek Mason
Registration No. 35,270

Daniel J. Pereira, Ph.D.
Registration No. 45,518

22850
Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 10/01)

UNITED STATES PATENT AND TRADEMARK OFFICE



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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/055,878	01/28/2002	Ben Hui Liu	215518US23

CONFIRMATION NO. 2053

22850
OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

FORMALITIES LETTER

OC000000007533886

Date Mailed: 02/26/2002

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 missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

OIPE JC
SEP 2 5 2002
PATENT & TRADEMARK OFFICE

Docket No. 215518US23

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Ben Hui LIU

SERIAL NUMBER: 10/055,878 ATTN: APPLICATION BRANCH

FILING DATE: January 28, 2002

FOR: A FOUR DIMENSIONAL BIOCHIP DESIGN FOR HIGH THROUGHPUT APPLICATIONS AND METHODS OF USING THE FOUR DIMENSIONAL BIOCHIP

FILING OF DECLARATION UNDER 37 CFR 1.53(f)

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

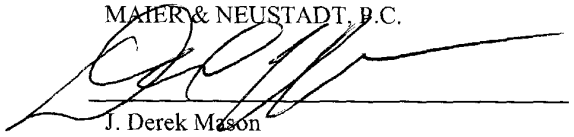
Responsive to the notification dated February 26, 2002, and in accordance with the provisions of 37 CFR 1.53(f), Applicants submit herewith a Rule 63 Declaration.

The required fee was paid at the time of filing the application.

In light of the foregoing, this application is deemed to be in proper condition for examination and such favorable action is earnestly solicited.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



J. Derek Mason
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MITCHELL D BITTMAN
PATENT DEPARTMENT
SEQUA CORPORATION
3 UNIVERSITY PLAZA
HACKENSACK NJ 07601

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OCT 0 7 2004

OFFICE OF PETITIONS

In re Application of
Ulf, et al.
Application No. 10/055,897
Filed: January 28, 2002
Attorney Docket No. 100508-09002

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT
:
:

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed July 16, 2004, notifying the Office of an error in Applicants' favor in the initial determination of patent term adjustment under 35 U.S.C. § 154(b). Applicants state that the patent term adjustment to date is nineteen (19) days, not two hundred forty-eight (248) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**. The determination of PTA at the time of the mailing of the Notice of Allowance is **nineteen (19)** days.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance was nineteen (19) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 25, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is two hundred forty-eight (248) days.

The Office initially determined a patent term adjustment of two hundred forty-eight (248) days based on an adjustment for PTO delay of two hundred forty-eight (248) days, pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1).

The PTO delay of two hundred forty-eight (248) days has been found to be incorrect. Applicants filed the application on January 28, 2002. Therefore, pursuant to U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), the Office had 14 months, or until March 28, 2003, to file an action under 35 U.S.C. 132 or a Notice of Allowance under 35 U.S.C. 151. An Office action was mailed on April 16, 2003. Accordingly, PTO delay should have been assessed as nineteen (19) days.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **nineteen (19)** days (19 days of PTO delay and 0 days of Applicant delay).

To the extent that this letter was submitted to advise the Office of an error in Applicants' favor, the $200.00 application fee under 37 C.F.R. § 1.705(b) has not been charged. The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Office of Patent Publication for timely issuance of the patent.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery A. Fries
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of adjusted PAIR calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I STREET, N.W.
WASHINGTON DC 20005-3315

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SEP 16 2004

OFFICE OF PETITIONS

In re Application of :
Shaun Jordan et al :
Application No. 10/055,915 : ON PETITION
Filed: January 28, 2002 :
Attorney Docket No. 01197.0227 :

This is a decision on the petition, filed September 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 July 19, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 1614 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).