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AUG 15 2007

OFFICE OF PETITIONS

Ellen Marcie Emas
BURNS, DOAN, SWECKER & MATHIS, LLP
P.O. Box 1404
ALEXANDRIA, VA 22313-1404

In re Application of
Igor Anatolievich Abrosimov et al.
Application No. 10/066,775
Filed: February 6, 2002
Attorney Docket No. 033533-001

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 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.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed May 16, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 17, 2005. A Notice of Abandonment was mailed on April 14, 2006.

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

The reply (RCE & Amendment) and statement of delay are not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states:

(b) Amendments and other papers. 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 patent attorney or patent agent of record appointed in compliance with § 1.32(b);

(2) A registered patent attorney or patent agent 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.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition and reply (RCE and Amendment)are not signed by all the inventors and the record herein fails to disclose that petitioner herein, Igor Anatolievich Abrosimov, was ever given a power of attorney to act on behalf of inventor Ilya Valerievich Klotchkov, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition and reply are not considered to be proper.

The request for withdrawal of attorney submitted on May 16, 2007 is not acceptable since all inventors did not sign the request. If you are acting on behalf of an assignee of record compliance with 37 CFR 3.73(b) must be met. It is further noted that the request for withdrawal of attorney is being treated as a Revocation of Power of Attorney.

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

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

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

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Igor Anatolievich Abrosimov
Patentica LLC
51 Sadovaya Street, Office 303
Saint Peterburg, RUSSIA 190068

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United States Patent and Trademark Office
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Maria Nilova
Patentica, LLC
51 Sadovaya Street, Office 303
Saint Petersburg
RUSSIAN FEDERATION

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NOV 2 1 2007

OFFICE OF PETITIONS

In re Application of :
Igor Anatolievich Abrosimov et al. :
Application No. 10/066,775 : DECISION ON PETITION
Filed: February 6, 2002 :
Attorney Docket No. 033533-001 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 18, 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 within the meaning of 37 CFR 1.113 to the final Office action, mailed May 16, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 17, 2005. A Notice of Abandonment was mailed on April 14, 2006.

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

The reply, the Request for Continued Examination (RCE), filed May 15, 2007, is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states:

> (b) Amendments and other papers. 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 patent attorney or patent agent of record appointed in compliance with § 1.32(b);
>
> (2) A registered patent attorney or patent agent 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.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

The renewed petition filed September 18, 2007, along with an amendment was signed by both inventors; however the Request for Continued Examination (RCE) was not signed in compliance with 37 CFR 1.33(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

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/066,775	02/06/2002	Igor Anatolievich Abrosimov	

CONFIRMATION NO. 5820

POA ACCEPTANCE LETTER

Maria Nilova
Patentica, LLC
51 Sadovaya Street, Office 303
Saint Petersburg,
RUSSIAN FEDERATION

OC000000026303851

Date Mailed: 10/25/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/18/2007.

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.

/kainabinet/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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 NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/066,775	02/06/2002	Igor Anatolievich Abrosimov	033533-001

CONFIRMATION NO. 5820

Ellen Marcie Emas
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

OC000000026143697

Date Mailed: 10/03/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/18/2007.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

K. Brabinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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MAR 18 2004

STEPHEN B. MAEBIUS
FOLEY & LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007-5300

In re Application of	:	
Gary L. Griffiths et al	:	
Serial No.: 10/066,782	:	WITHDRAWAL OF ATTORNEY
Filed: February 6, 2002	:	
Attorney Docket No.: 018733-1089	:	

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

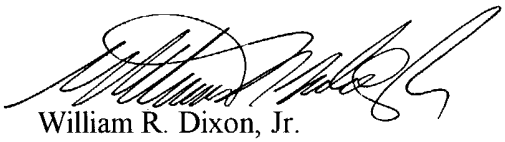
37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

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 571-272-0519 or by facsimile transmission at Office facsimile number.



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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 12

MCDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington DC 20005-3096

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MAR 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Carroll, McAuliffe, Gibbs, O'Sullivan, Rogers, Gill, :
deBelleuille, Kling, and Baird :
Application No. 10/066,795 :
Filed: February 6, 2002 : DECISION ON PETITION
Attorney Docket No. 10473-839 :
Invention: NETWORK-BASED METHOD AND SYSTEM FOR: DISTRIBUTING DATA :

This is in response to the petition under 37 CFR 1.48(a), filed February 24, 2003.

This is also a response to the petition under 37 CFR 1.47(a) also filed February 24, 2003.

The petition under 37 CFR 1.48(a) is **GRANTED**.

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

TREATMENT UNDER 37 CFR 1.48(a)

Petitioner requested that inventors Rogers, deBelleuille, Kling, and Baird be added as joint inventors in the above-cited application. Petitioner provided a statement from all inventors to be added indicating that the omission of their names with the filing of the first declaration occurred without deceptive intent. Petitioner also provided a statement from the assignee consent to the addition of the above-named joint inventors.

Deposit account 50-0417 will be charged $130.00 for the instant petition fee.

The petition under 37 CFR 1.48 is granted as all the requirement of 37 CFR 1.48(a) have been satisfied. A corrected filing receipt is enclosed.

TREATMENT UNDER 37 CFR 1.47(a)

Petitioner has established that, despite being presented with a complete copy of the application papers, inventor Rogers has constructively refused to join in the prosecution of 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.

This application will be forwarded to Technology Center 3600 via the Assignment Division where the application will be sent for recordation of the assignment filed February 24, 2003.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

#19

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JUL 0 8 2004

Office of the Director
Group 3600

McDermott, Will & Emery
600 13th Street, N.W.
Washington, DC 20005-3096

In re Application of
Anthony Carroll
Application No. 10/066,795
Filed: February 6, 2002
For: NETWORK-BASED METHOD AND SYSTEM FOR DISTRIBUTING DATA

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants' petition to withdrawal the holding of abandonment filed on May 11, 2004.

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

☒ Postcard receipt being dated November 6, 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.

SNM/vdb: 6/30/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

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AUG 3 0 2005

OFFICE OF PETITIONS

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK NY 10023

In re Application of :
Johannes Lechner :
Application No. 10/066,808 : ON PETITION
Filed: February 4, 2002 :
Attorney Docket No. U 013863-3 :

This is a decision on the petition, filed August 29, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 13, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2841 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P O BOX 450
ALEXANDRIA VA 22313-1450
www.uspto.gov

Paper No.

Dorsey & Whitney LLP
Intellectual Property Department
50 South Sixth Street
Minneapolis, MN 55402-1498

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of
James R. Hornsby
Application No. 10/066,818
Filed: February 4, 2002
Attorney Docket No. 14002.01

DECISION
ON PETITION
37 CFR 1.137(b)

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

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed on February 23, 2004. As no reply was received within the meaning of 37 CFR 1.113 and no extensions of time obtained, this application became abandoned on May 24, 2004.

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

This application is being referred to TC 3712 for consideration of the Request for Continued Examination filed on February 24, 2005.

Any questions concerning this matter may be directed to Gene Kim at (571)272-6052, or in his absence, the undersigned at (571)272-3217.

Karen Creasy for

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

cc: Richard B. Klar
28 East Old Country Road
Hicksville, NY 11801

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 06162005

Dorsey & Whitney LLP
Intellectual Property Department
50 South Sixth Street
Minneapolis, MN 55402-1498

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of
James R. Hornsby
Application No. 10/066,818
Filed: February 4, 2002
Attorney Docket No. 14002.01

DECISION
ON PETITION
37 CFR 1.137(b)

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

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed on February 23, 2004. As no reply was received within the meaning of 37 CFR 1.113 and no extensions of time obtained, this application became abandoned on May 24, 2004.

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

This application is being referred to TC 3712 for consideration of the Request for Continued Examination filed on February 24, 2005.

Any questions concerning this matter may be directed to Gene Kim at (571)272-6052, or in his absence, the undersigned at (571)272-3217.

Karen Creasy for

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

cc: Richard B. Klar
28 East Old Country Road
Hicksville, NY 11801

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

Bucknam and Archer
600 Old Country Road
Garden City, NY 11530

MAILED

MAY 14 2002

OFFICE OF DIRECTOR
GROUP

In re Application of:
Ralph E. Bucknam
Application No. 10/066,847
Filed: February 4, 2002
Attorney Docket No. BA-22810

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed February 4, 2002, to make the above-identified application special.

Petitioner requests that the application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Item 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, Item IV, must include a showing, as by a birth certificate or the applicant's affidavit or declaration, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration by applicant as a showing that applicant 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.

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
WASHINGTON, D.C. 20231
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DEC 31 2002

OFFICE OF DIRECTOR
GROUP

Paper No. 6

Bucknam and Archer
1077 Northern Boulevard
Roslyn, NY 11576

In re Application of:
Ralph E. Bucknam
Application No. 10/066,847
Filed: February 4, 2002
Attorney Docket No. BA-22810

DECISION ON PETITION
UNDER 37 CFR 1.84(a)(2)
TO ACCEPT A COLOR
DRAWING

This is a decision on the petition under 37 CFR 1.84(a)(2), filed February 4, 2002, to accept a color drawing of Figure 13 in the above captioned application.

Petitioner requests that the USPTO accept a "color version of the Table of Nuclides in Fig. 13."

37 CFR 1.84(a)(2) states that on "rare occasions, color drawings may be necessary as the only practical medium by which to disclose subject matter sought to be patented...." However, Fig. 13 is not "subject matter sought to be patented" because, as stated on page 14 of the application, "Fig. 13 shows a Table of Nuclides downloaded from http:/sutckh.nd.ac/CoN/ as the work of Jongwha CHANG, Korea Atomic Energy Research Institute." Since this is not the applicant's own work, it is not subject matter sought to be patented. Also, color drawings are not the only practical medium by which this table of data can be presented. In fact, a black and white drawing could be presented and equally understood by those of ordinary skill in the art. Also, as pointed out in the petition and on page 14 of the specification, this table (and variations thereof) is in broad use and readily available on both the Internet and in print elsewhere.

Since Fig. 13 does not depict subject matter sought to be patented and is not the only practical medium by which to disclose the subject matter depicted therein, the petition is denied.

This application is being forwarded to the examiner for prosecution.

John R. Lee, Supervisory Patent Examiner
Technology Center 2800
Group Art Unit 2881

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FEB - 9 2004

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FEB - 9 2004

OFFICE OF THE DIRECTOR
TC 3600

William E. Noonan
Post Office Box 07338
Fort Myers, FL 33919

Paper No. 6

In re Application of
Andrew J. DeCarlo
Application No. 10/066,883
Filed: February 4, 2002
For: UPRIGHT GOLF CART

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 12, 2003.

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 April 14, 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/2/2/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Ratner & Prestia
500 North Gulph Road
P.O. Box 980
Valley Forge, PA 19482

MAILED

JUL 0 5 2005

Technology Center 2100

In re Application of: Gotoh, et al.)
Application No. 10/066,901) DECISION ON PETITION TO
Attorney Docket No. MTS-710US26) WITHDRAW HOLDING OF
Filed: February 4, 2002) ABANDONMENT UNDER 37 CFR
For: OPTICAL DISK, AN OPTICAL DISK) §1.181
BARCODE FORMING METHOD, AN)
OPTICAL DISK REPRODUCTION
APPARATUS, A MARKING FORMING ....

This is a decision on the petition to withdraw the holding of abandonment, under 37 CFR §1.181, filed on January 20, 2004.

The instant application was held abandoned for failure to timely respond to the Non-Final Office action mailed June 20, 2003. A notice of abandonment was mailed on January 12, 2004. A grantable petition must include a copy of the response and proof of timely filing of the response. A stamped post card receipt with an indication of the documents filed therewith is acceptable. No fee is required.

Petitioner has provided evidence in the petition that includes: a copy of the response and amendment with a certificate of mailing under 37 CFR § 1.8(a) on September 22, 2003; transmittal letter; and a post card receipt identifying the contents of the response, which includes a USPTO receipt date of September 25, 2003.

Since all of the criteria set forth above have been met, the petition is **GRANTED.** The Notice of Abandonment is hereby **WITHDRAWN**. The delay in response to the petition is regretted.

The application is being forwarded to the Office of Patent Publications for further processing. Note, a notice of allowability and notice of allowance and issue fee(s) due was mailed to applicant on August 10, 2004. The application is currently pending the matching of the issue fee, paid September 17, 2004.

Brian L. Johnson
Special Programs Examiner 6/1/05
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3595

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/19/07

TO SPE OF : ART UNIT 2137

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/066901** Patent No.: **7103781**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 173

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Approved - Paul Callahan in full.

_____ SPE

2137 Art Unit

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CHARLES A WILKINSON
68 E BROAD ST
PO BOX 1426
BETHLEHEM PA 18016-1426

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APR 2 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Ralph M. Pidock	:	
Application No. 10/066,904	:	ON PETITION
Filed: February 4, 2002	:	
Attorney Docket No. 288	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 25, 2004.

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

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed April 22, 2003. This Office action set a shortened statutory period for reply of three months. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 23, 2003. A Notice of Abandonment was mailed on December 16, 2003.

Petitioner has paid the petition fee, submitted the required reply in the form of an amendment, and made the proper statement of unintentional delay.

The application file is being forwarded to Group Art Unit 3727 for consideration of the amendment filed October 25, 2004.

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
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ESCHWEILER & ASSOCIATES, LLC
NATIONAL CITY BANK BUILDING
629 EUCLID AVE., SUITE 1210
CLEVELAND, OH 44114

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SEP 0 9 2005

OFFICE OF PETITIONS

Patent No. 6,929,465	:	
Issue Date: August 16, 2005	:	
Application No. 10/067,012	:	ON PETITION
Filed: February 4, 2002	:	
Attorney Docket No. RWBP101US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed August 15, 2005.

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 of status to a large entity has been entered and made of record.

This application will be returned to Files Repository.

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JUN 18 2003

OFFICE OF PETITIONS

STEVEN J. FUNK
SPRINT CORPORATION
8140 WARD PARKWAY
KANSAS CITY MO 64114

In re Application of
Manish Mangal et al.
Application No. 10/067,028
Filed: February 4, 2002
Attorney Docket No. 1802

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

This is a decision on the petition, filed May 12, 2003 to revive the instant nonprovisional application under 37 CFR 1.137(b). This petition is being treated 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 3, 2003. However, the United State 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 September 25, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-4497.

This application is being forwarded to Technology Center Art Unit 2684 for examination in due course.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: 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)
6,748,264	2004-06-08	10/067,039	2002-02-04	10677-009-999

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	/Kenneth L. Stein/	Date (YYYY-MM-DD)	2008-08-08
Name	Kenneth L. Stein	Registration Number	38704

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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P.O. Box 1450
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In re Patent No. 6748264
Issue Date: June 8,2004
Application No. 10067039
Filed: February 4,2002
Attorney Docket No. 10677-009

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

This is a decision on the electronic petition, filed August 8,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 8,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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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CHIEF PATENT COUNSEL
SMITH & NEPHEW, INC.
1450 BROOKS ROAD
MEMPHIS, TN 38116

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JAN 13 2006
OFFICE OF PETITIONS

In re Application of :
Joseph Ferrante et al :
Application No. 10/067,052 : DECISION GRANTING PETITION
Filed: February 4, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 39262/263783 :

This is a decision on the petition, filed January 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 December 16, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 (571) 272-3218.

---

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

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 Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Kilpatrick Stockton LLP
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309-4530

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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
10/067,069	02/04/2002	3753	870	2009	2	12	1

CONFIRMATION NO. 4058

STRIKER, STRIKER & STENBY
103 East Neck Road
Huntington, NY 11743

CORRECTED FILING RECEIPT

OC000000011659611

Date Mailed: 01/09/2004

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

Applicant(s)

Mehmet-Fatih Sen, Hemmingen, GERMANY;

Domestic Priority data as claimed by applicant

Foreign Applications

GERMANY 101 04 622.7 02/02/2001

If Required, Foreign Filing License Granted: 03/01/2002

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Hydraulic pressure regulating valve

Preliminary Class

137

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Paper No. 10

Steven J. Funk
Sprint Corporation
8140 Ward Parkway
Kansas City MO 64114

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SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of
Manish Mangal et al.
Application No. 10/067,080
Filed: February 4, 2002
Attorney Docket No. 1844
Title: METHOD AND SYSTEM FOR SELECTIVELY REDUCING CALL-SETUP LATENCY THROUGH MANAGEMENT OF PAGING FREQUENCY

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

This is a decision on the petition filed on August 25, 2003, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

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

On February 6, 2003, a Notice of Rescission of Nonpublication Request was filed with the Office. Unfortunately, notification of the filing of a foreign or international application did not accompany this filing.

Petitioner states that the instant nonprovisional application is the subject of an international application that was filed on January 30, 2003. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an international application.

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 under a multilateral international agreement, that requires publication of applications 18 months after filing.

The petition is **GRANTED-IN-PART**.

Concerning the petition under 37 C.F.R. §1.137(f), the petition is **GRANTED**.

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.

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.

The portion of the petition which request that the petition fee be waived is **DISMISSED**, as the payment of the required petition fee is a statutory prerequisite to the filing of a petition to revive under 37 C.F.R. §1.137, and cannot be waived. See M.P.E.P. 711.03(c)(III)(B)[2]

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2 "...[T]he payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application and cannot be waived. In addition, the phrase '[o]n filing' in 35 U.S.C. §41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 C.F.R. §1.137. See H.R. Rep. No. 542, 97th Cong., 2nd Sess. 6 (1082), *reprinted in* 1982 U.S.C.C.A.N. 770 ('[t]he fees set forth in this section are due on filing the petition'). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied."

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

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/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries concerning *this decision* should be directed to the undersigned at (703) 305-0011.

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

cc: MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

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OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

In re Application of
Matthews, et al.
Application No. 10/067,106
Filed: February 4, 2002
Atty. Dkt. No.: 1384.004US3
Title: SYSTEM AND PROTOCOL FOR FRAME RELAY SERVICE OVER THE INTERNET

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

This decision is in response to the petition under 37 CFR 1.47(a), filed September 16, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed February 4, 2002 without an executed oath or declaration. Accordingly, a Notice to File Missing parts of Nonprovisional Application was mailed April 9, 2002 requiring, among other items, an executed oath or declaration and a surcharge. The instant petition naming Abraham R. Matthews, Sajit Bhaskaran, Lianghwa Jou, and Sachin Desai as joint inventors was filed in response.

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 (1) and (2) set forth above.

As to item (1), petitioner has failed to establish that the inventor received the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the oath or declaration.

The affidavit of Rodney L. Lacy indicates that the non-signing inventor was sent a copy of the patent papers for application No. 09/663,486 and thereafter refused to execute the declaration application No. 09/663,486.

Petitioner is reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. Petitioner has presented no evidence that the non-signing inventor was ever presented with a copy of the application papers (specification, claims, drawings, oath or declaration) for the instant application. While the affidavit of Rodney L. Lacy references a written refusal to execute a declaration in a prior application, there is no indication that the inventor ever received the application papers for the instant application and thereafter refused to execute the declaration.

Any renewed petition should be accompanied by evidence to sufficiently establish that the non-signing inventor either cannot be located or that the non-signing inventor was sent a complete copy of the application papers and thereafter refused to execute the declaration. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney. Petitioner may wish to provide the Office copies of letters sent to the inventor indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

However, petitioner is advised that if Rule 47 status has been accorded in a prior application in a previous decision on petition, petitioner may submit a copy of the decision upon renewed petition in accordance with 37 CFR 1.47(c).

As to item (2), the declaration is unacceptable as the citizenship the non-signing inventor is contrary to the citizenship claimed by the inventor in the copy of the E-mail referenced in and attached to the petition. Whereas the inventor claims to be of Singapore citizenship, the declaration indicates the inventor is of United States citizenship. Any renewed petition should include an oath or declaration in compliance with 37 CFR 1.63 and 37 CFR 1.64.

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

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

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

Application No. 10/067,106

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

COPY MAILED

JUL 2 4 2003

OFFICE OF PETITIONS

In re Application of Matthews, et al.	
Application No. 10/067,106	DECISION GRANTING
Filed: February 4, 2002	STATUS UNDER 37 CFR
Atty. Dkt. No.: 1384.004US3	1.47(a)
Title: SYSTEM AND PROTOCOL FOR FRAME RELAY SERVICE OVER THE INTERNET	

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed May 28, 2003 (Certificate of Mailing date of May 21, 2003).

The petition is **GRANTED**.

Petitioner has shown that inventor Sajit Bhaskaran has refused to join in the filing of the above-identified application after having been presented with the application papers.

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

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHWEGMAN, LUNDBERG, WOESSNER
& KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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JUL 2 4 2003

OFFICE OF PETITIONS

In re Application of
Matthews, et al.
Application No. 10/067,106
Filed: February 4, 2002
Atty. Dkt. No.: 1384.004US3
Title: SYSTEM AND PROTOCOL FOR FRAME RELAY SERVICE OVER THE INTERNET

This is a decision on the petition, filed July 10, 2003, under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

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

The application was held abandoned December 22, 2002 for failure to timely reply to the Office communication mailed October 21, 2002. The Office communication set a two (2) shortened period of time for reply. Notice of Abandonment was mailed June 10, 2003.

Petitioner states that a response to the Office communication along with petition for extension of time were timely submitted May 21, 2003 in accordance with the Certificate of Mailing procedures outlined at 37 CFR 1.8. Petitioner has included a copy of the response filed in response to the Office letter.

A review of the application file indicates that the reply submitted does not indicate receipt of the response purportedly submitted May 21, 2003, however, the response will be considered timely as it complies with the requirements of 37 CFR 1.8(b) in that (1) the Office was promptly informed of the previous timely mailing, (2) a copy of the previously submitted correspondence with certificate of mailing thereon has been supplied, and (3) statements attesting to the previous timely mailing have been submitted.

In view of the evidence presented by petitioner, the holding of abandonment in the above-referenced application is hereby vacated and the holding of abandonment withdrawn. Accordingly, the response to the Office communication will be accepted as having been timely filed via Certificate of Mailing on May 21, 2003.

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

Telephone inquiries should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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JUL 2 4 2003

OFFICE OF PETITIONS

SAJIT BHASKARAN
1336 AVOSET TERRACE
SUNNYVALE, CA 94087

In re Application of
Matthews, et al.
Application No. 10/067,106
Filed: February 4, 2002
Atty. Dkt. No.: 1384.004US3
Title: SYSTEM AND PROTOCOL FOR FRAME RELAY SERVICE OVER THE INTERNET

LETTER

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Alesia M. Brown
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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SCHWEGMAN, LUNDBERG & WOESSNER, PA
PO BOX 2938
MINNEAPOLIS, MN 55402

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of :
Abraham R. Matthews, et. al. :
Application No. 10/067,106 : DECISION ON PETITION
Filed: February 4, 2002 : TO WITHDRAW
Attorney Docket No. FORT-000400 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 2, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to SCHWEGMAN, LUNDBERG & WOESSNER, PA has been revoked by the assignee of the patent application on June 26, 2007. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

Telephone inquiries concerning this decision should be directed to Denise Williams at 571-272-8930.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: MICHAEL A DESANCTIS
HAMILTON DESANCTIS & CHA LLP
FINANCIAL PLAZA AT UNION SQUARE
225 UNION BOULEVARD, SUITE 305
LAKEWOOD CO 80228

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EUGENE G. KIM
CARR & FERRELL
2200 GENG ROAD
PALO ALTO, CA 94303

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OCT 13 2004

OFFICE OF PETITIONS

In re Application of :
Charle' R. Rupp et al :
Application No. 10/067,151 : NOTICE
Filed: January 29, 2002 :
Attorney Docket No. STRE-003/01US

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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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AUG 24 2005

In re Patent No. 6,810,585	:	
Issue Date: November 2, 2004	:	**DECISION GRANTING**
Appl No.: 10/067,155	:	**PETITION**
Filed: February 04, 2002	:	*37 CFR 1.324*
For: **METHOD OF MAKING A MICROENDODONTICS ULTRASONIC SURGICAL DENTAL TOOL HAVING WATER PORT**	:	

This is a decision on the renewed petition under 37 CFR 1.48, filed October 13, 2004. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition to correct inventorship under 37 CFR 1.324.

The petition is granted.

The petition under 37 CFR 1.324 filed March 2, 2005 is moot in view of the previously filed petition.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Kevin P. Shaver
Supervisory Patent Examiner
Art Unit 3732
Patent Examining Group 3700

MCNEES, WALLACE & NURICK LLC
100 PINE STREET
P.O. BOX 1166
HARRISBURG, PA 17108-1166

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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DATE: August 21, 2005
TO: Certificates of Correction Branch
FROM: Kevin P. Shaver
SPE, Art Unit 3732
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,810,585 as specified on the attached Certificate.

Kevin P. Shaver, SPE
Art Unit 3732

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,810,585
Patented: November 2, 2004

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

Teresa R. Hickok, Bonita, CA and
Syngcuk Kim, Broomall, PA

Kevin P. Shaver
Supervisory Patent Examiner
Art Unit 3732

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Nov. 2, 2005

TO SPE OF : ART UNIT 3732 (*Kevin Shaver*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,810,585

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

Please complete this form and return with file, within **7** days to:
Palm location 7580 Certificates of Correction Branch – South Tower – 9A22
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please see Amdt B, page 5 - attached, was not scanned into the IFW, there is no record of the spec. sheet being approved. Your denial or approval decision is needed below.

sp Stacy Powell

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 x120

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

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

Comments:

_____

_____

_____

_____

_____

Kevin Shaver — **SPE**

3732 — **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

BROUSE MCDOWELL LPA
388 SOUTH MAIN STREET,
SUITE 500
AKRON, OH 44311

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AUG 27 2008

In re Application of	:	
David A. **MARTIN**, et al	:	
Application No. 10/067,181	:	DECISION ON PETITION
Filed: February 4, 2002	:	TO WITHDRAW
Attorney Docket No. 22467.30018	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed March 19, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Heather M. Barnes not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: EMERSON, THOMSON & BENNETT, LLC
777 W. MARKET STREET
AKRON, OH 44303

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ROBERT M. HUNTER PLLC
P.O. BOX 2709
KAMUELA HI 96743

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FEB 25 2005

OFFICE OF PETITIONS

In re Application of :
Johnson :
Application No. 10/067,185 : DECISION GRANTING PETITION
Filed: February 1, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 02-0201-JOHN :

This is a decision on the petition, filed November 1, 2004 , which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on June 18, 2004. 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.

This application matured into Patent No. 6,808,917 on October 26, 2004 . Therefore, no further action being required, this patented file is being forwarded to Files Repository.

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

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions
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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Raj S. Dave, Ph.D., J.D.
Morrison & Foerster LLP
2000 Pennsylvania Ave., N.W.
Washington, DC 20006-1888

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DEC 19 2005

OFFICE OF PETITIONS

In re Patent No. 6,788,443 :
Issued: September 7, 2004 :
Application No.: 10/067,209 : ON PETITION
Filed: February 7, 2002 :
Attorney Docket No:**495812001200** :

This is in response to the "Notice of Loss of Small Entity Status and Payment of Deficiency", which will be treated as a petition filed pursuant to 37 CFR 1.28.

The petition is **GRANTED.**

The record reflects that a surcharge, the filing and issue fees and extra claim fees for the above-cited application were paid at the small entity rate. Petitioner later discovered that the inventive entity or assignee did not qualify as a small entity and filed the instant petition, accordingly.

Petitioner has remitted the total deficient amount of $2,677.00.

Pursuant to 37 CFR 1.28(d), the payment of the deficient amount will be treated under 37 CFR 1.27(g)(2) as a notification of a loss of entitlement to small entity status.

The application file will be directed to the Files Repository.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

Paul J. Skwierawski
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street, Suit 1800
Arlington, VA 22209

NOV 3 2003

In re Application of:
JESSEP *et al.*
Serial No.: 09/067,244
Filed: February 07, 2002
Attorney Docket No.: **219.40438X00**

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 June 23, 2003.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorneys to the attorneys associated with Customer No. 21186, was filed on October 15, 2003. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

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

Inquiries related to this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

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

Enclosure: Copy of Request for Withdrawal as Attorney or Agent for the application file maintained by the attorneys of record.

cc: SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402

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

James M. Duncan
P.O. Box 11172
Bakersfield, CA 93389-1172

COPY MAILED

JUN 1 8 2002

OFFICE OF PETITIONS

In re Application of
Stetson-Buck
Application No. 10/067,316
Filed: February 7, 2002
Attorney Docket No. STET-01-001

ON PETITION

This is a decision on the petition filed, March 7, 2002, under 37 CFR 1.10(e) to accord the above-identified application a filing date of November 19, 2001, instead of the presently accorded filing date of February 7, 2002. This petition is being treated as a submission under 37 CFR 1.6(e).

The petition is **Granted**.

Petitioner attempted to deposit the application in "Express Mail" service with the U.S. Postal Service (USPS), on November 19, 2001. Unfortunately, on November 16, 2001, the USPS issued a memorandum temporarily and immediately suspending Express Mail service to Washington, D.C. zip codes 202xx through 205xx. The United States Patent and Trademark Office (USPTO) designated this interruption in USPS Express Mail service as a postal service interruption within the meaning of 35 USC 21(a) and 37 CFR 1.6(e).

The petition filed on March 7, 2002, states that the application was deposited in Express Mail service on November 19, 2001 and, but for the designated interruption in the USPS, would have been accorded that date as the "date-in." Under 37 CFR 1.10(a), correspondence received by the USPTO that was delivered by the "Express Mail Post Office to Addressee" service of the USPS is considered filed in the Office on the date of deposit with the USPS shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation.

In support of the petition, petitioner has supplied a statement from James M. Duncan stating the Express Mail package was refused on November 19, 2001 and was subsequently mailed first class mail on November 20, 2001. The petition is accompanied by a copy of the Express Mail label which has a stamp indicating service was temporarily suspended. Petitioner has also included a USPS routing slip addressed to petitioner indicating Express Mail service to 202xx through 205xx zip codes was suspended but first class mail to the indicated zip codes was being accepted.

The USPTO published a notice in the Official Gazette on October 9, 2001 that provides guidance in situations like this one, when deposit in Express Mail is refused due to suspension. See United States Postal Service Interruption and Emergency, 12251 Off. Gaz. Pat. Office 55 (Oct 9, 2001).

It is concluded that the present application would have been filed on November 19, 2001, if it were not for the designated interruption in the USPS.

Accordingly, the application will be accorded a filing date of November 19, 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 19, 2001.

The change of address submitted with the instant petition has been entered.

Telephone inquiries specific to this matter should be directed to the Petitions Attorney Charlema R. Grant at (703) 306-0251.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 18 2005

Young & Thompson
745 South 23rd Street
2nd Floor
Arlington, VA 22202

In re Application of	:	DECISION ON PETITION
Jean-Claude Beauvois	:	TO WITHDRAW
Serial No. : 10/067,330	:	HOLDING OF
Filed : February 7, 2002	:	ABANDONMENT
For : Method and Device for Manufacturing a Structured Packing Corrugation, and Corresponding Fluid-Treatment Apparatus	:	

This is a decision on a communication filed December 10, 2004 that is being treated as a request to review the holding of abandonment mailed December 6, 2004, for failure to respond to the Office action mailed March 25, 2004. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response, a copy of a three-month extension of time request, and a copy of a PTO stamped receipt dated September 27, 2004 as evidence of the timely filing of the response. It is noted that since the 25th of September was a Saturday, a response filed on the next business day, i.e., on Monday, the 27th of September, is deemed timely.

In view of the above, the Notice of Abandonment mailed December 6, 2004 in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response received September 27, 2004.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750

ak/05/13/05

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LEONG C. LEI
PMB # 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK, CA 94598

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JAN 1 8 2007

OFFICE OF PETITIONS

In re Application of

Chyuan Feng Tsay

Application No. 10/067,355

Filed: February 7, 2002

Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed July 27, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on February 21, 2003, after it was believed that no response was received to the non-final Office action mailed November 20, 2002. The non-final Office action allowed a period for reply of three months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on June 25, 2003, indicating that a reply to the non-final Office action was not received.

The instant petition maintains that an amendment responsive to the non-final Office action was transmitted via facsimile on February 19, 2003. A copy of the amendment containing a certificate of facsimile transmission dated February 19, 2003, and noting four pages as having been successfully transmitted to a USPTO fax line on February 19, 2003, accompanied the petition.

The response submitted February 19, 2003, has not been located in the Office. In view of the evidence submitted, the response is deemed timely. Petitioner is cautioned, however, that all correspondence (with a few exceptions) transmitted by facsimile should be directed to the central facsimile number of (571) 273-8300. See *MPEP* 502.01.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the statutory period for reply. The holding of abandonment is withdrawn, accordingly.

Inquiries regarding this decision may directed to the undersigned at (571) 272-3222.

The application file is being forwarded Technology Center 3700, GAU 3754, for further processing including processing of the amendment filed with the instant petition on July 27, 2006.

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

spg

Mailed: 7/15/05

In re application of	:	
Chao Hsiang Wang et al.	:	DECISION ON
Serial No. 10/067,357	:	PETITION
Filed: February 7, 2002	:	
For: SOLAR ENERGY-OPERATED STREET-LAMP SYSTEM	:	

This is a response to the PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT filed December 29, 2003. The petition requests that the abandonment, as set forth in the Notice of Abandonment of October 9, 2003, be withdrawn since the applicants did timely file a reply.

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 instant application file reveals that the Notice of Abandonment of October 9, 2003 was previously withdrawn and the application was subsequently allowed and patented.

In view of the fact that the abandonment was previously withdrawn and the application subsequently allowed and patented the petition is **DISMISSED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Leong C. LEI
PMB #1008
1867 Ygnacio Valley Road
Walnut Creek CA 94598-3214

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

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Paper No. 8

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SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

j1017 U.S. PTO
10/067362
02/07/02

In re Application of :
Schenkel :
Application No. 08/749,671 :
Filed: November 15, 1996 :
Attorney Docket No. 551P01US-P2 :

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed October 21, 1999, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors will be changed as follows:

1. Nicholas Dawes
2. David Schenkel
3. Michael Slavitch

This application is being forwarded to Technology Center 2700 via the Initial Patent Examination Division, Customer Corrections, to change the order of inventorship.

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

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Keith D. Nowack
Dickstein Shapiro Morin & Oshinksy LLP
1177 Avenue of the Americas
41st Floor
New York, NY 10036-2714

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AUG 15 2005

OFFICE OF PETITIONS

In re Application of :
Charles Hoberman :
Application No. 10/067,379 : ON PETITION
Filed: February 5, 2002 :
Attorney Docket No. F.11170 :

This is a decision on the petition under 37 CFR 1.137(a), filed September 27, 2004, to revive the above-identified application.

The petition is **GRANTED.**

A Notice of Allowance (Notice) was mailed to applicant on March 4, 2004, which set a three-month statutory period within which to submit the issue and publication fees. Since the issue and publication fees were not received, the application became abandoned on June 5, 2004.

Petitioner alleges that the Notice was never received because it was mailed to the address of the former attorney of record. Petitioner also states that a "properly executed Revocation of A Power of Attorney and/or Authorization, revoking all prior Power and Authorizations and appointing the law firm of Gottlieb, Rackman & Reisman, P.C.... was filed and received with the Patent Office on October 1, 2003."

A review of the file record shows that a Revocation of Power of Attorney (Revocation) was, in fact, received in the Office on October 1, 2003, but the Revocation was not properly executed, as petitioner asserts. The Revocation failed to include a Statement Under 37 CFR 3.73(b), which establishes the right of the assignee to prosecute the application. Since the Revocation was filed by the assignee and did not include the aforementioned Statement, it would have been improper for the Office to change the address. However, the Office should have sent petitioner a notice regarding this, but there is no indication in the Office records that such a notice was mailed to applicant. In this regard, the Office erred, which supports petitioner's allegations of unavoidable delay. A courtesy copy of this decision is being mailed to petitioner.

In order for the Office to accept the Revocation, petitioner should submit the enclosed Statement Under 37 CFR 3.73(b).

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of the issue fee; (2) the petition fee of $55; and (3) a showing to the satisfaction of the Commissioner that the entire delay was unavoidable.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

cc: Jeffrey M. Kaden, Esq.
Gottlieb, Rackman & Reisman, P. C.
270 Madison Avenue, 8th Floor
New York, NY 10016

Enclosure: Statement Under 37 CFR 3.73(b)

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Keith D. Nowack
Dickstein Shapiro Morin & Oshinksy LLP
1177 Avenue of the Americas
41st Floor
New York, NY 10036-2714

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AUG 15 2005

OFFICE OF PETITIONS

In re Application of :
Charles Hoberman :
Application No. 10/067,379 : ON PETITION
Filed: February 5, 2002 :
Attorney Docket No. F.11170 :

This is a decision on the petition under 37 CFR 1.137(a), filed September 27, 2004, to revive the above-identified application.

The petition is **GRANTED.**

A Notice of Allowance (Notice) was mailed to applicant on March 4, 2004, which set a three-month statutory period within which to submit the issue and publication fees. Since the issue and publication fees were not received, the application became abandoned on June 5, 2004.

Petitioner alleges that the Notice was never received because it was mailed to the address of the former attorney of record. Petitioner also states that a "properly executed Revocation of A Power of Attorney and/or Authorization, revoking all prior Power and Authorizations and appointing the law firm of Gottlieb, Rackman & Reisman, P.C.... was filed and received with the Patent Office on October 1, 2003."

A review of the file record shows that a Revocation of Power of Attorney (Revocation) was, in fact, received in the Office on October 1, 2003, but the Revocation was not properly executed, as petitioner asserts. The Revocation failed to include a Statement Under 37 CFR 3.73(b), which establishes the right of the assignee to prosecute the application. Since the Revocation was filed by the assignee and did not include the aforementioned Statement, it would have been improper for the Office to change the address. However, the Office should have sent petitioner a notice regarding this, but there is no indication in the Office records that such a notice was mailed to applicant. In this regard, the Office erred, which supports petitioner's allegations of unavoidable delay. A courtesy copy of this decision is being mailed to petitioner.

In order for the Office to accept the Revocation, petitioner should submit the enclosed Statement Under 37 CFR 3.73(b).

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of the issue fee; (2) the petition fee of $55; and (3) a showing to the satisfaction of the Commissioner that the entire delay was unavoidable.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

cc: Jeffrey M. Kaden, Esq.
Gottlieb, Rackman & Reisman, P. C.
270 Madison Avenue, 8th Floor
New York, NY 10016

Enclosure: Statement Under 37 CFR 3.73(b)

IFW

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Keith D. Nowack
Dickstein Shapiro Morin & Oshinksy LLP
1177 Avenue of the Americas
41st Floor
New York, NY 10036-2714

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OFFICE OF PETITIONS

In re Application of :
Charles Hoberman :
Application No. 10/067,379 : ON PETITION
Filed: February 5, 2002 :
Attorney Docket No. F.11170 :

This is a decision on the petition under 37 CFR 1.137(a), filed September 27, 2004, to revive the above-identified application.

The petition is **GRANTED.**

A Notice of Allowance (Notice) was mailed to applicant on March 4, 2004, which set a three-month statutory period within which to submit the issue and publication fees. Since the issue and publication fees were not received, the application became abandoned on June 5, 2004.

Petitioner alleges that the Notice was never received because it was mailed to the address of the former attorney of record. Petitioner also states that a "properly executed Revocation of A Power of Attorney and/or Authorization, revoking all prior Power and Authorizations and appointing the law firm of Gottlieb, Rackman & Reisman, P.C.... was filed and received with the Patent Office on October 1, 2003."

A review of the file record shows that a Revocation of Power of Attorney (Revocation) was, in fact, received in the Office on October 1, 2003, but the Revocation was not properly executed, as petitioner asserts. The Revocation failed to include a Statement Under 37 CFR 3.73(b), which establishes the right of the assignee to prosecute the application. Since the Revocation was filed by the assignee and did not include the aforementioned Statement, it would have been improper for the Office to change the address. However, the Office should have sent petitioner a notice regarding this, but there is no indication in the Office records that such a notice was mailed to applicant. In this regard, the Office erred, which supports petitioner's allegations of unavoidable delay. A courtesy copy of this decision is being mailed to petitioner.

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JAN 12 2006
OFFICE OF PETITIONS

In order for the Office to accept the Revocation, petitioner should submit the enclosed Statement Under 37 CFR 3.73(b).

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of the issue fee; (2) the petition fee of $55; and (3) a showing to the satisfaction of the Commissioner that the entire delay was unavoidable.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

cc: Jeffrey M. Kaden, Esq.
Gottlieb, Rackman & Reisman, P. C.
270 Madison Avenue, 8th Floor
New York, NY 10016

Enclosure: Statement Under 37 CFR 3.73(b)

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Docket No.: 4700-002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s)	:	Charles Hoberman			
Serial No.	:	10/067,379	**Examiner**	:	Green, Christy M.
Filed	:	February 5, 2002	**Group Art Unit**	:	3635
For	:	LOOP ASSEMBLIES HAVING A CENTRAL LINK			

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

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OFFICE OF PETITIONS

CERTIFICATE OF MAILING (37 C.F.R. 1.8a)

I hereby certify that the attached:

1. Petition to revive unavoidably abandoned application under 37 CFR 1.137(a);
2. Exhibits: A, B and C;
3. Part B-Issue Fee (s) Transmittal (in duplicate);
4. Check in the amount of $1,049.00 (Issue Fee, Publication Fee, advance order of 3 copies, and fee under 37 CFR 1.17 (l)); and
5. Return Receipt Postcard.

(Along with any paper(s) referred to as being attached or enclosed) and this Certificate of Mailing are being deposited with the United States Postal Service on the date indicated below with sufficient postage as first-class mail in an envelope addressed to the: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Respectfully submitted
GOTTLIEB, RACKMAN & REISMAN, P.C.

Dated: 10.12.2006

Zoya Chernina
Zoya V. Chernina

GOTTLIEB, RACKMAN & REISMAN, P.C.
270 Madison Avenue
New York, N.Y. 10016-0601
Phone: (212) 684-3900
Facsimile: (212) 684-3999

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Docket No.: 4700-002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s)	:	Charles Haberman			
Serial No.	:	10/067,379	**Examiner**	:	Green, Christy M.
Filed	:	February 5, 2002	**Group Art Unit**	:	3635
For	:	LOOP ASSEMBLIES HAVING A CENTRAL LINK			

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

RECEIVED
JAN 12 2006
OFFICE OF PETITIONS

PETITION TO REVIVE UNAVOIDABLY ABANDONED APPLICATION UNDER 37 CFR 1.137(a)

Sir:

Applicant respectfully submits this Petition to revive the above-identified application which was abandoned for the unavoidably delayed payment of the issued fee under 35 U.S.C. 151. (Please note that, in accordance with the verbal inquiry regarding status of the application made to the US Patent Office on October 6, 2004, the Notice of Abandonment was issued, but has not yet received by the Applicant's counsel).

The basis for submitting this Petition is as follows.

The Notice of Allowance and Fee(s) Due, which was issued in the above-identified application on March 4, 2004, was never received by the Applicant's current counsel. A print-out of the Docket Sheet issued by the Docketing Department of Gottlieb, Rackman & Reisman, P.C. shows that the Notice was never entered in the docketing system in regard to the above-identified application (attached hereto as Exhibit A).

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Applicant's counsel learned about issuance of the Notice upon contacting the Examiner Green on October 6, 2004. Examiner Green was contacted after having not received any communication from the Patent Office in response to the Amendment filed on December 8, 2004.

Applicant's counsel was informed by the Examiner Green that the Notice was mailed to the office of prior counsel DICKSTEIN SHAPIRO MORIN & OSHINSKY, whose address was incorrectly still on the file's record. In that regard, it is noted that a properly executed Revocation of A Power of Attorney and/or Authorization, revoking all prior Powers and Authorizations and appointing the law firm of Gottlieb, Rackman & Reisman, P.C. to act on behalf of the Applicant, along with a duly executed Change of Correspondence Address form, was filed and received with the Patent Office on October 1, 2003. A copy of the Return Post Card stamped by the Patent Office mailroom and verifying the receipt of the same is enclosed herewith as Exhibit B.

Thereafter, Applicants' counsel immediately telephoned the office of DICKSTEIN SHAPIRO MORIN & OSHINSKY and inquired whether the Notice was ever received. After learning that it was, indeed, received by the DICKSTEIN SHAPIRO MORIN & OSHINSKY office, Applicant's counsel requested that the same be sent to the office of GOTTLIEB, RACKMAN & REISMAN, P.C..

As a result, the copy of the Notice of Allowance and Fee(s) Due, along with associated documents, was transmitted by facsimile from Mr. Keith D. Nowak of DICKSTEIN SHAPIRO MORIN & OSHINSKY to the Applicant's counsel on the following date, October 7, 2004. A copy of the transmission report is attached hereto as Exhibit C. It should be noted that, according to the records of the office of DICKSTEIN SHAPIRO MORIN & OSHINSKY, the facsimile copy was previously sent to the attention of the applicants' counsel on March 12, 2004. However, and

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firm of GOTTLIFR, RACKMAN & REISMAN, P.C..

In view of the above, Applicant respectfully requests that this Petition be granted and the application be promptly processed for issuance as a patent.

Enclosed with this Petition is Part B - Fee(s) Transmittal, duly executed, and accompanied by a check in the amount of $ 994.00 to cover the small entity Issue Fee of $ 665.00, Publication Fee of $ 300.00, and Advance order of three (3) copies.

Also enclosed is a check in the amount of $ 55.00 to cover the small entity fee set forth in 37 CFR 1.17(l) for filing this Petition.

If any additional fee is required, authorization is hereby given to charge the amount of any such fee to the Deposit Account No. 07-1730, Docket No. 4700 002. A duplicate copy of this page is attached for that purpose.

Respectfully submitted
GOTTLIEB, RACKMAN & REISMAN, P.C.

Dated: 10/12/04

Jeffrey M. Kaden
Attorney for Applicant
Registration No. 31,268

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GOTTLIEB, RACKMAN & REISMAN, P.C., ATTORNEYS AT LAW

1316 Commissioner of Patents & Trademarks

56638

10/11/04 56638

Invoice Number and Date

OPER-29C 10/11/04 Issue and Publication fees, and Petition to Revive 1,049.00

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GOTTLIEB, RACKMAN & REISMAN, P.C.
ATTORNEYS AT LAW
PROFESSIONAL BUSINESS ACCOUNT
270 MADISON AVENUE, NEW YORK, NY 10016-0601

VALLEY NATIONAL BANK
MERCHANTS BANK DIVISION
275 MADISON AVE., NY NY 10016

56638
NUMBER

55-133/212

DATE 10/11/04

AMOUNT *$1,049.00*

PAY TO THE ORDER OF **ONE THOUSAND FORTY NINE AND 00/100 DOLLARS**

Commissioner of Patents & Trademarks

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PTO/SB - 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 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

7590 02/04/2004

KEITH D. NOWAK
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 AVENUE OF THE AMERICAS
41st FLOOR
NEW YORK, NY 10036 2714

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO, on the date indicated below.

Zayra V. Cherena (Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,379	02/05/2002	Charles Hoberman	F.11170	7148

TITLE OF INVENTION: LOOP ASSEMBLIES HAVING A CENTRAL LINK

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$665	$300	$965	06/04/2004

EXAMINER	ART UNIT	CLASS-SUBCLASS
GREEN, CHRISTY MARIE	3613	052-641000

985

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 GOTTLIEB, RACKMAN & REISMAN, P.C.
2
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)
PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.
(A) NAME OF ASSIGNEE (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
☑ Advance Order - # of Copies 3 (Three)

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 to charge the required fee(s), or credit any overpayment, to Deposit Account Number 02-1330 (enclose an extra copy of this form).

Director for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to reapply any previously paid issue fee to the application identified above.

(Authorized Signature) (Date) 10/12/04
Jeffrey M. Kaden, Reg. No. 31268

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

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

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

TRANSMIT THIS FORM WITH FEE(S)

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P.O. Box 1450
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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

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MAR 3 1 2008

In re Application of :

HAMID, Laurence :
Application No. 10/067,403 : DECISION ON PETITION
Filed: February 07, 2002 : TO WITHDRAW
Attorney Docket No. **IVPH-0072** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 10, 2007.

The request is **APPROVED.**

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

The request was signed by Michael P. Dunnam on behalf of all attorneys of record who are associated with customer No. 23377. All attorneys/agents associated have been withdrawn.
Applicant is reminded that there is no attorney of record at this time.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **LAURENCE HAMID**
561 BROOKRIDGE CRESCENT
OTTAWA, ONTARIO
K4A 1Z3

cc: **PERKINS COIE**
1201 THIRD AVENUE
SUITE 4800
SEATTLE, WASHINGTON 98101

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United States Patent and Trademark Office
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P.O. BOX 1247
SEATTLE, WA 98111-1247

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MAR 13 2009

OFFICE OF PETITIONS

In re Application of Hamid :
Application No. 10/067,403 : Decision on Petition
Filing Date: February 7, 2002 :
Attorney Docket No. 320528489US :

This is a decision on the petition under 37 CFR 1.137(b), filed September 19, 2008, 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 May 22, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 23, 2008. A Notice of Abandonment was mailed on September 15, 2008.

The instant petition requests revival of the application.

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,
(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.

Petitioner has submitted a reply to the Notice of Allowance in the form of the issue fee and publication fee. Petitioner has submitted the required petition fee of $1,540. 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 Data Management, Patent Publication Branch, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

DEC 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Laurence Hamid	:	
Patent Number: 7,529,944	:	
Issue Date: 05/05/2009	:	
Application No. 10/067403	:	
Filing or 371(c) Date: 02/07/2002	:	ON APPLICATION FOR
Attorney Docket Number:	:	PATENT TERM ADJUSTMENT
320528489US	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(B), filed July 6, 2009. Patentees assert that the correct patent term adjustment indicated on the patent is 727 days, not 443 days. Patentees request this correction solely on the basis that the Office took in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(d).

The Application for Patent Term Adjustment ("PTA") under 37 CFR 1.705(d), is **DISMISSED**.

On May 5, 2009, the above-identified application matured into U.S. Patent No. 7,529,944, with a patent term adjustment of 443 days. This application for patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees provide that the PTO properly accounted for the delay under 35 U.S.C. § 154(b)(1)(A), referred to as the "A delay," (786 days) and that the PTO properly accounted for the reduction in patent term adjustment under 35 U.S.C. 154(b)(2)(C), (449 days). However, Patentees assert that the PTO failed to properly account for the delay under 35 U.S.C. § 154(b)(1)(B), referred to as the "B delay" (504 days) and that the PTO failed to properly account for the overlap under 35 U.S.C. § 154(b)(2)(A) in the A delay and B delay (114 days). Patentees assert that the correct patent term adjustment is the sum of the A delay and the B delay minus any overlapping days minus any applicant delay, or 727 days (786 days of "A delay" *plus* 504 days of "B delay) *less* 114 overlapping days *less* 449 days of applicant delay).

It is noted that patentees do not acknowledge the adjustment of 106 days under 37 CFR 1.702(a)(4) for the failure by the Office to issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied. Thus the total period of adjustment pursuant to 37 CFR 1.702(a) is 892 days.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the filing of the RCE on June 26, 2006, the application was pending three years and 503 days after its filing date (from February 8, 2005 to June 25, 2006). The Office asserts that certain action was not taken within the specified time frame, and thus, as of adjustment of 786 days which accrued prior to the filing of the RCE is correct. At issue is whether patentees should accrue 503 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 786 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 503 days of delay in issuing the patent overlaps with the 786 of examination delay under 37 CFR 1.702(a). Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> 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, 35 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual

> filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 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).

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

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

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)),

> the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over three-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 other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, February 7, 2002, and ending June 25, 2006, the day before the filing of the RCE on June 26, 2006. Prior to the filing of the RCE, 786 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 503 days Office delay in issuing the patent overlap with the 786 days of Office examination delay. During that time, the issuance of the patent was delayed by 786 days, not 786 days and 503 days. The Office took 14 months and 786 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 786 days of Office delay and the time allowed within the time frames for processing and examination, the application issued three years and 503 days after its filing date. The Office did not delay 786 days and then an additional 503 days. Accordingly, 786 days of patent term adjustment was properly entered because the period of delay of 503 days attributable to the delay in the issuance of the patent overlaps with the period of adjustment of 786 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted.

Accordingly, at issuance, the Office properly entered 443 days of patent term adjustment, having considered the 503 days of Office delay under the three-year pendency provision in conjunction with the 786 days of adjustment under 37 CFR 1.702(a)(1) that accrued prior to the filing of the RCE and the 106 days of adjustment under 37 CFR 1.702(a)(4) that accrued subsequent to the filing of the RCE, reduced 449 days for applicant delay.

In view thereof, no adjustment to the patent term will be made.

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 8

U.S. PHILIPS CORPORATION
580 WHITE PLAINS ROAD
TARRYTOWN, NY 10591

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AUG 0 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Michael Overdick et al	:	DECISION GRANTING
Application No. 10/067,427	:	PETITION
Filed: February 5, 2002	:	
Attorney Docket No. DE 010033	:	

This is a decision on the paper styled "PETITION TO CORRECT FILING RECEIPT" filed July 16, 2002, which is properly treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of February 5, 2002, rather than the presently accorded filing date of February 4, 2002.

Applicants allege that the application was deposited in "Express Mail" service with the U.S. Postal Service, on February 5, 2002. In support, applicants provided, inter alia, a copy of the Express Mail label, receipt no. EV031697502S, showing a Date-In of February 5, 2002. The same Express Mail receipt number appears on the copy of the original transmittal letter found in the present application. Applicants request that the application be accorded a filing date of February 5, 2002.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on February 5, 2002.

The petition is granted. The $130.00 petition fee is being credited to counsel's deposit account.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to February 5, 2002.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
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Paper No. 3

Josephine Young
KING & SPALDING
191 Peachtree Street, N.E., 45th Floor
Atlanta, GA 30303

MAILED

JUL 0 2 2003

Technology Center 2100

In re Application of:
Anidya Datta
Application No. 10/067,432
Filed: September 4, 2002
For: PROXY-BASED ACCELERATION OF DYNAMICALLY GENERATED CONTENT

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 filed September 4, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

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Paper No. 7

KING & SPALDING
191 Peachtree Street
Atlanta, GA 30303

OCT 2 9 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Anindya Datta
Application No.: 10/067,432
Filed: February 4, 2002
For: PROXY-BASED ACCELERATION OF DYNAMICALLY GENERATED CONTENT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw from Representation filed June 24, 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 agnet.

The singer of the petition, A. Shane Nichols 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.

The Power of Attorney by Assignee of Entire Interest (Revocation of Prior Powers) dated October 10, 2003 has been entered and accepted in this file.

For the above stated reasons, the request is **DISMISSED AS MOOT**

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 Power of Attorney dated September 25, 2003.

William R. Silverio
SUTHERLAND ASBILL & BRENNAN LLP
999 Peachtree Street
Atlanta, GA 30309

James R. Matthews

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OCT - 1 2003

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PAPER NO. 5

In re Application of Constantinos J. Joannou Serial No: 10/067,433 Filed: February 07, 2002 For: PORTABLE ION GENERATOR AND DUST COLLECTOR	:	PETITION UNDER M.P.E.P. 708.02, IV

This is in response to the petition filed June 25, 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

David J. French
Stn. "D"
P.O. Box 2486
Ottawa, K1P 5W6
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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NEUSTEL LAW OFFICES, LTD.
2534 SOUTH UNIVERSITY DRIVE
SUITE 4
FARGO, ND 58103

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AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of :
John K. Newton, et al. :
Application No. 10/067,440 : DECISION ON PETITION
Filed: February 5, 2005 : TO WITHDRAW
Attorney Docket No. NEWT-001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 1, 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 Michael S. Neustel on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for

recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: JOHN K. NEWTON
3712 S. LIGHTHOUSE HILLS LANE
FORT WORTH, TX 76179-3829

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 NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/067,440	02/05/2002	John K. Newton	NEWT-001

CONFIRMATION NO. 7397

POWER OF ATTORNEY NOTICE

65215
NEUSTEL LAW OFFICES, LTD.
2534 SOUTH UNIVERSITY DRIVE
SUITE 4
FARGO, ND 58103

Date Mailed: 08/18/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/01/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/gbien-aime/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of :
Brian N. Sedlak, et al. :
Application No. 10/067,460 : DECISION ON PETITION
Filed: February 4, 2002 : TO WITHDRAW
Attorney Docket No. 577172001600 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 14, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office [.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "application is being transferred to another attorney", does not meet any of the conditions set forth in 37 CFR 10.40.

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

There are no pending office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: MARK KAUFMAN, ESQ.
NIXON, PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004

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MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of :
Brian N. Sedlak, et al. :
Application No. 10/067,460 : DECISION ON PETITION
Filed: February 4, 2002 : TO WITHDRAW
Attorney Docket No. 577172001600 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 17, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Adam Keser does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MARC KAUFMAN, ESQ.
NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004

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Paper No. 7

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

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APR 2 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Hata	:	
Filed: February 5, 2002	:	ON PETITION
Application No. 10/067,471	:	
Dkt. No.: 10812-1US (USN01005)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 21, 2004, to revive the above-identified application.

This application became abandoned October 22, 2003 for failure to timely file a proper response to the non-final Office action mailed July 21, 2003. The non-final Office action set a three (3) month shortened statutory period of time for response. No extensions of time under 37 CFR 1.136 were timely requested. Notice of Abandonment was mailed January 26, 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 non-final Office action mailed July 21, 2003 is accepted as having been unintentionally delayed.

This application file is being forwarded to Technology Center 3600.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jaspers :
Application No. 10/067,476 :
Filed: February 5, 2002 :
Attorney Docket No. NL 010064 :
For: CONTOUR FILTER FOR IMAGE
SENSOR OUTPUT SIGNALS

This is a decision on the petition, filed February 23, 2007, under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the October 5, 2005 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on January 6, 2006. A Notice of Abandonment was mailed on April 20, 2006.

Applicant has submitted an amendment and terminal disclaimer in reply to the October 5, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the October 5, 2005 non-final Office action, and the $750.00 petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 2185 for consideration of the amendment and terminal disclaimer filed on February 23, 2007. It is noted that the fee for the terminal disclaimer has not yet been charged.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
P.O. BOX 142950
GAINESVILLE FL 32614-2950

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SEP 13 2005

OFFICE OF PETITIONS

In re Application :
Horenstein, et al. :
Application No. 10/067,495 : ON PETITION
Filed: February 4, 2002 :
Attorney Docket No. UF-266X :
For: INHIBITORS OF
GLYCOSYLTRANSFERASE ENZYMES

This is a decision on the petition under 37 CFR 1.182, filed May 12, 2005 (certificate of mailing date May 10, 2005), to change the name of the first listed joint inventor.

The petition is **DISMISSED**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

On March 4, 2002, the Office mailed a Notice to File Missing Parts of Nonprovisional Application. This Notice required applicants to submit an executed declaration and a $65.00 surcharge within an extendable two month period from the mail date of the notice. A review of the application file reveals that the $65.00 surcharge was paid and a transmittal letter was filed via facsimile on April 9, 2002. However, there is no executed declaration. Therefore, the application became abandoned on May 5, 2002 for failure to file an executed declaration .

It would be inappropriate to change the name of a joint inventor without knowing who was listed as joint inventors on the first executed declaration.

Petitioners should file either a petition to revive under 37 CFR 1.137(a) or 1.137(b) --MPEP 711.03(c)– or a petition under 37 CFR 1.181 to withdrawal the holding of abandonment – 37 CFR 1.8(b). The executed declaration must be submitted along with any petition filed. In addition, petitioners should file a reconsideration petition under 37 CFR 1.182 to change the name of the first listed inventor.

The current fee for filing a petition under 37 CFR 1.182 is $400.00, not $130.00. Petitioners' deposit account was charged the full fee due on May 13, 2005.

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

By mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

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

E. Shirene Willis

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

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United States Patent and Trademark Office
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A PROFESSIONAL ASSOCIATION
P.O. BOX 142950
GAINESVILLE FL 32614-2950

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OCT 21 2005

OFFICE OF PETITIONS

In re Application :
Horenstein, et al. :
Application No. 10/067,495 : ON PETITION
Filed: February 4, 2002 :
Attorney Docket No. UF-266X :
For: INHIBITORS OF
GLYCOSYLTRANSFERASE ENZYMES

This is a decision on the reconsideration petition under 37 CFR 1.182 to change the name of the first listed joint inventor and the petition under 37 CFR 1.181 to withdraw the holding of abandonment. Both petitions were filed in the same document on September 30, 2005 (certificate of mailing date September 28, 2005),

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

The petition under 37 CFR 1.182 is **GRANTED.**

PETITION UNDER 37 CFR 1.181

On March 4, 2002, the Office mailed a Notice to File Missing Parts of Nonprovisional Application. This Notice required applicants to submit an executed declaration and a $65.00 surcharge within an extendable two month period from the mail date of the notice. A review of the application file reveals that the $65.00 surcharge was paid and a transmittal letter was filed via facsimile on April 9, 2002. However, there is no executed declaration. Therefore, the Office contended that this application became abandoned on May 5, 2002 for failure to file an executed declaration.

Petitioners assert that an executed declaration was timely transmitted via facsimile to and received by the Office on April 9, 2002. The Office has no record of receiving this item. However, the copy of the itemized transmittal letter found in the application file contains a proper certificate of facsimile transmission citing an April 9, 2002 date of transmission. This transmittal letter states,

inter alia, that an executed declaration is enclosed. In addition, petitioners have submitted a copy of their sending unit's report confirming successful transmission of 10 pages of material on April 9, 2002.

Under 37 CFR 1.8(b), correspondence is considered timely filed if petitioner: supplies (1) a copy of the previously transmitted correspondence with a signed certificate of transmission affixed thereto (2) a statement which attests on a personal knowledge basis to the previous timely transmission. A copy of the sending unit's report confirming transmission may be used to support this statement. Furthermore, under 37 CFR 1.8(c), the Office may require additional evidence to determine if the correspondence was timely filed.

Petitioners have supplied persuasive evidence that an executed declaration was successfully filed via facsimile transmission on April 9, 2002. The petition under 37 CFR 1.181 is granted.

Regarding fees, petitioners were charged two $65.00 late declaration surcharges. One $65.00 surcharge will be refunded to deposit account no. 19-0065.

PETITION UNDER 37 CFR 1.182

Petitioners have submitted a Final Judgment of Change of Name (Adult) ordered on July 2, 2003 that shows "Benjamin Alan Horenstein" legally changed his name to "Nicole Alana Horenstein".

The petition under 37 CFR 1.182 requesting that the U.S. Patent Office recognize the name change of the first listed joint inventor in its records is granted.

A replacement filing receipt reflecting this change is enclosed.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 1654.

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

E. Shirene Willis

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

enclosure: replacement filing receipt

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

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OFFICE OF PETITIONS

In re Application of	:	
Ghobad Heidari, et al.	:	
Application No. 10/067,496	:	DECISION GRANTING PETITION
Filed: February 4, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 046301-053000	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 20, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 9, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2611 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

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

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NOV 15 2004

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TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON MA 02110

In re Application of:
Takada et al.
Serial No.: 10/067,527
Filed: February 4, 2002
Attorney Docket No.: FJN-058C1

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR § 1.181(a) filed on September 28, 2004, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed March 9, 2004.

A review of the file history shows that the examiner mailed an Office action to applicants on March 9, 2004, setting a three-month statutory time period for reply. On September 21, 2004, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that a response to the Office action was timely filed on September 9, 2004, as evidenced by a copy of the receipt card showing receipt of the response by the USPTO on September 9, 2004. Applicants also provide a copy of the response to the Office action with the petition. In view of this evidence, applicants are considered to have submitted a timely reply.

Applicants' petition is **GRANTED** retroactively as the case is no longer in abandoned status..

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

Marianne C. Seidel for

Bruce Kisliuk
Director, Technology Center 1600

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WASHINGTON, DC 20005-3500

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OFFICE OF PETITIONS

In re Application of :
Michael P. Dunk, et al. :
Application No. 10/067,530 : ON PETITION
Filed: February 7, 2002 :
Attorney Docket No. 08215-406001 / P03-025998 :

This is a decision on the petition, filed March 10, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 31, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2836 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
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Date : March 11, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Michael P. Dunk, et al
Application No. : 10/067,530
Filed : February 7, 2002

The above-identified application has been assigned Patent No. 6,870,283 and an issue date of March 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 March 22, 2005:

> "All reference to Patent No. 6,870,283 to YASUTAKE YASUHARA of WISCONSIN for CONTROL SYSTEM FOR ELECTRICAL SWITCHGEAR appearing in the Official Gazette of March 22, 2005, should be deleted since no patent was granted."

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-24-07 **Paper No.:** _____

TO SPE OF : **Technology Center** 2617 10/067536

SUBJECT : Request for Certificate of Correction on Patent No.: 7184764 B2

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

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

Thank You For Your Assistance

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

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

Comments: Please enter the missing statement as applicants' Requested

CONGVAN TRAN
PRIMARY EXAMINER

CHARLES N. APPIAH
SUPERVISORY PATENT EXAMINER

SPE **Art Unit**

PTO/SB/44 (10-96)
Approved for use through 6/30/99. OMB 0651-0033
Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 7,184,764

DATED : February 2007

INVENTOR(S) : Li-On RAVIV, et al

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

Priority Data:

On the front page, insert in the section marked

[63] Related U.S. Application Data

"US Application No. 60/267,187 filed on February 8, 2001"

MAILING ADDRESS OF SENDER:
Martin D. Moynihan
PRTSI, Inc.
P.O. Box 16446
Arlington, VA 22215

PATENT NO. 7,184,764

No. of additional copies 2

MAY 16 2007

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#6

NOV 26 2003

Robert J. Paradiso
DAVISON, DAVISON & KAPPEL, LLC
485 Seventh Avenue, 14th Floor
New York, New York 10018

In re Application of
Lawrence Friedhoff et al
Serial No.: 10/067,593
Filed: February 5, 2002
Attorney Docket No.: 300.1042

: Decision on Petition

This is in response to applicant's "Petition Under 37 CFR 1.18(a) Requesting Withdrawal of the Holding of Abandonment" filed August 28, 2003.

On May 21, 2002, a Restriction Requirement was mailed. On July 22, 2002, the Restriction Requirement dated May 21, 2002 was re-mailed because the one mailed on May 21, 2002 was returned to the Office. On July 1, 2003, a Notice of Abandonment was mailed for failure to timely file a response. On August 28, 2003 the present petition was filed. Applicants assert that the office action mailed July 22, 2002 was never received.

Applicants' statement and evidence show that the office action mailed July 22, 2002 was never received. A review also shows that the correspondence address was incorrectly recorded in the file. Accordingly, the petition is Granted.

The application has been returned to pending status. The corresponding address has been corrected and the Restriction Requirement dated July 22, 2002 is being re-mailed herewith.

Petition Granted.

Cecalia Tsang for
John Doll
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR -3 2004

Paper No. 11

In re Application of
Thomas Falone *et al*
Application No. 10/067,594
Filed: February 5, 2002
Attorney Docket No. IGC-PT002

DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on December 18, 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 12, 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 a timely reply to the Office letter in question was in fact filed. Petitioners have supported this allegation by submitting a copy of the reply, a copy of a petition for a three month extension of time and a fee authorization, and a copy of a filing receipt for the reply showing that these items were received in the Office on November 12, 2003, a date within the reply period set by the Office letter in question, as extended. Based upon this showing, it is clear that this application is not abandoned. In addition, Office financial records show that the extension fee was in fact received.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner to refund the additional $475.00 extension of time fee charged on December 19, 2003 which duplicates the previously charged extension fee. Thereafter, the application will be forwarded to the examiner for action on the reply filed on November 12, 2003.

PETITION GRANTED.

E. Rollins-Cross

E. Rollins-Cross, Director
Technology Center 3700

Volpe and Koenig, P.C..
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103

Refund Ref: 03/12/2004
Credit Card Refund Total: $475.00
0030014862

Adjustment date: 03/12/2004 EMILLER
12/19/2003 LWONDIM1 00000088 10067594
01 FC:2253 -475.00 OP

HD Exp.: XXXXXXXXXXX1213

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Paper 6

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

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MAR 2 2 2002

OFFICE OF PETITIONS

In re Application of
Hunter-Cevera, et al
Application No. 10/067,613
Filed: 4 February, 2002
Attorney Docket No. 014939-001600US

: DECISION REFUSING
: STATUS UNDER
: 37 C.F.R. §1.47(a)

This is a decision on the petition under 37 C.F.R. §1.47(a),[1] filed on 7 March, 2002, and partially (but incompletely) supplemented via FAX on 21 March, 2002.

The petition is **DISMISSED**.

Any request (and fee) for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision.

Any response should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)" and may include an oath or declaration executed by the inventor.

Failure to respond within the time set forth above will result in abandonment of the application.

BACKGROUND

The record indicates:

- the application was filed on 4 February, 2002, without an executed oath or declaration for the first- and fifth-inventors, respectively, Jennifer C. Hunter-Cevera and Nancy McKinney;

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with § 1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in § 1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with § 1.63.

(c) The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

- before a Notice to File Missing Parts of Application was mailed, Petitioner filed the instant petition and fee;[2]
- Petitioner was asked via telephone on 21 March, 2002, to evidence transmittal of the entire application to the non-signing inventors, and on 21 March, 2002, Petitioner supplemented the record with copies of those transmittal letters (but no delivery disposition documents);
- Petitioner was asked via telephone on 21 March, 2002, to provide the required statement of the last known residential addresses of the non-signing inventors, however, while Petitioner indicated that those materials would be forwarded immediately over Counsel's signature, those materials were not received by the Office.[3]

ANALYSIS

A copy of the application papers must be sent to the last known address of the non-signing inventor with a request that he/she sign the declaration for the patent application. A forwarding address should be requested, if the papers are returned, and other attempts to locate the inventor, e.g. through e-mail or the telephone continue to fail, then applicant will have established that the inventor cannot be reached.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[4]

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

By mail: Commissioner of Patents and Trademarks
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

---

[2] Although Petitioner failed to pay the late-filing surcharge pursuant to 37 C.F.R. §1.16(e) of $65.00 for a small entity, however, Petitioner has authorized such necessary fees to be charged to Deposit Account 20-1430, and those fees have been charged.

[3] The submission should include: (a) a declaration of the registered attorney(s)/agent(s) and other authority(ies) attempting the contact, outlining the efforts and the results; and (b) documentation (such as a copy of the transmittal letter(s) and delivery disposition document(s) supporting that (those) declaration(s).

[4] See: MPEP 409.03(b).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper 8

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AND CREW LLP
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APR 2 5 2002

OFFICE OF PETITIONS

In re Application of
Hunter-Cevera, et al
Application No. 10/067,613
Filed: 4 February, 2002
Attorney Docket No. 014939-001600US

: DECISION GRANTING
: STATUS UNDER
: 37 C.F.R. §1.47(a)

This is a decision on the submission treated as a petition under 37 C.F.R. §1.47(a),[1] filed on 23 April, 2002, via FAX.[2]

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor cannot be found or otherwise refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703)305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with § 1.63.

* * *

(c) The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

[2] A prior petition, filed on 7 March and incompletely supplemented on 21 March, 2002, was dismissed on 22 March, 2002 (Petitioner failed to state formally the last known address of the inventors). Pursuant to Petitioner's instruction, the $130.00 petition fee is charged to Deposit Account 20-1430.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PAUL C. OESTREICH
MORRISS O'BRYANT COMPAGNI, P.C.
136 SOUTH MAIN STREET
SUITE 700
SALT LAKE CITY UT 84101

COPY MAILED

FEB 09 2005

OFFICE OF PETITIONS

In re Application of :
Hwu, et al. :
Application No. 10/067,616 : ON PETITION
Filed: February 4, 2002 :
Attorney Docket No. ISYS117272 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 8, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed June 11, 2003. Accordingly, this application became abandoned on September 12, 2003.

The file is being forwarded to Technology Center 2800 for review of the amendment, filed November 8, 2004, *in due course*.

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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WILLIAM J. SAPONE, ESQ.
THE OFFICES OF COLEMAN SUDOL SAPONE P.C.
714 COLORADO AVE.
BRIDGEPORT, CT 06605

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of
Roberto Valducci
Application No. 10/067,624
Filed: February 4, 2002
Attorney Docket No. 242/9-1646

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed August 11, 2005.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before May 25, 2005. A Notice of Abandonment was mailed on August 3, 2005. Receipt is acknowledged of the issue/publication fee on August 11, 2005.

This application is being referred to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 7

WILLIAM S BRITT, ESQ.
TRASBRITT, A PROFESSIONAL CORPORATION
230 SOUTH 500 EAST
SUITE 300
SALT LAKE CITY, UT 84102

COPY MAILED

NOV 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Rueyjen Hwu, et al. :
Application No. 10/067,625 : ON PETITION
Filed: February 4, 2002 :
Attorney Docket No. ISYS117880 :

This is a decision on the petition, filed August 25, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is GRANTED.

A review of the record discloses that the application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed October 3, 2003. On August 25, 2004, the present petition was filed, as well as an Amendment and a Revocation and Power of Attorney.

The Revocation and Power Attorney filed August 25, 2004 is **not** acceptable, since it appears that the Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received. However, in accordance with 37 CFR 1.34(a), the signature of Paul C. Oestreich appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Oestreich desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 2879 for consideration of the amendment filed August 25, 2004.

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

cc: Paul C. Oestreich
MORRISS O'BRYANT COMPAGNI, P.C.
136 South Main Street, Suite 700
Salt Lake City, UT 84101

UNITED STATES PATENT AND TRADEMARK OFFICE

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AMB 04-03

Paper No. 4

Reginald W. Reymus
P.O. Box 176
Schurz, NV 89427

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APR 1 4 2003

OFFICE OF PETITIONS

In re Application of :
Reymus :
Application No. 10/067,666 :
Filed: February 4, 2002 :
For: FASCIA BOARD HANGER :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed January 30, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from 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 decision.

This application became abandoned June 3, 2002 for failure to file a proper response to the Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed April 2, 2003. The Notice set a two (2) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were requested. This decision precedes mailing of Notice of Abandonment.

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).

Petitioner has failed to satisfy items (1) and (3) set forth above.

As to item (1), the petition lacks the required reply. The filing fees submitted with the instant application upon filing were insufficient. The Notice required applicant to submit the remaining required filing fees as well as fees due for independent claims in excess of 3. The Notice required applicant to submit $15.00 to complete the basic small entity filing fee

and $420.00 for independent claims in excess of 3. Petitioner is advised that since the mail date of the Notice, filing fees have increased. As of today, the basic small entity filing fee is $375.00 and independent claims over 3 are currently $42.00 per claim. The instant application contains 10 independent claims over 3 for a total due of $420.00. Applicant originally submitted $355.00. Accordingly, the fees required for revival of the instant application are currently $440.00 ($20.00 towards basic filing fee and $420.00 for independent claims). Any renewed petition must be accompanied by a proper response to the Notice to File Missing Parts of Nonprovisional Application.

As to item (3) set forth above, petitioner has failed to present 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.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533 at 538, 213 U.S.P.Q. (BNA) 977 at 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 U.S.P.Q. 2d 1130 (N.D. Ind. 1987).

The showing of record is insufficient to establish unavoidable delay. Petitioner attributes the delay in timely responding to the Notice to an ongoing medical condition. Petitioner declares that after being diagnosed with colon cancer in February, 2002, petitioner began medical treatment in March, 2002. Petitioner further declares petitioner underwent surgery on July 15, 2002 and continues to undergo chemotherapy treatments.

Petitioner has failed to provide documentary evidence to establish that he was incapacitated for the entire period of time

from the time a response to the Notice was due until the filing of a grantable petition pursuant to 37 CFR 1.137(a)(3). The instant petition lacks supporting evidence in the form of medical records and/or reports to support petitioner's contention that medical illness prevented petitioner from timely attending to the instant application for patent. Moreover, to the extent that petitioner was incapacitated, petitioner has failed to establish that an illness of this nature would have precluded petitioner from timely scheduling and preparing the necessary response to the Notice. Hence, no nexus has been established between the alleged medical condition of petitioner and the failure to timely file a proper response to the Notice. See, In re Patent No. 4,461,759, 16 U.S.P.Q.2d (BNA) 1883 (Comm'r Pat. & Trademarks Aug. 10, 1990).

Any renewed petition must be accompanied by evidence to establish unavoidable delay within the meaning of 37 CFR 1.137(a) and should include evidence to substantiate the medical history described in petitioner's declaration. The renewed petition must establish a nexus between the alleged ongoing medical condition of petitioner and petitioner's failure to timely submit a proper reply to the Notice. Petitioner should consider acquiring and submitting declarations and/or affidavits from medical professionals familiar with petitioner's recent medical history along with copies of medical records and/or reports. Moreover, petitioner is reminded that the entire period of delay in responding to the Notice from the time that a response was due on June 2, 2002 until such time as a grantable petition is filed must be proven to have been unavoidable.

ALTERNATE VENUE

Petitioner is strongly urged to consider filing a petition stating that the entire delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee (currently $650.00 for a small entity), statement of unintentional delay, reply, and, if applicable, a terminal disclaimer (and 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 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).

Enclosed for petitioner's convenience is a form for use in this matter.

Further correspondence with respect to this matter submitted **prior to** May 1, 2003 should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

By facsimile: (703) 308-6916

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

For correspondence submitted on or after May 1, 2003, petitioner is **advised** to review the attached Special Mail Stop Notice detailing changes in the USPTO correspondence.

The correspondence address contained in the instant petition differs from the address of record in this application. If petitioner desires to receive future correspondence at an address other than that currently of record, the appropriate change of correspondence address request must be promptly submitted. A courtesy copy of this decision will be mailed to both addresses. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner is **strongly urged** to complete the attached change of correspondence address form and return the same as soon as possible or petitioner should submit the change of correspondence address along with a renewed petition.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner

for Patent Examination Policy

Enclosures: USPTO Privacy Statement
Mail Stop Notice
PTO/SB/64
PTO/SB/144

CC: Reginald W. Reymus
P.O. Box 344
Schurz, NV 89427

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JUN 2 3 2003

Paper No. 6

OFFICE OF PETITIONS

REGINALD W. REYMUS
P.O. BOX 344
#2 VISTA DRIVE
SCHURZ, NV 89427

In re Application of :
Reymus :
Application No. 10/067,666 :
Filed: February 4, 2002 :
For: FASCIA BOARD HANGER :

DECISION ON PETITION

This is a decision on the petition renewed under 37 CFR 1.137(b), filed June 12, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned June 3, 2002 for failure to file a proper response to the Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed April 2, 2003. The Notice set a two (2) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were requested. This decision precedes mailing of Notice of Abandonment. A petition under 37 CFR 1.137(a) was filed January 30, 2003 and dismissed April 14, 2003.

The change of correspondence address submitted herewith has been entered into the record.

This application is being forwarded to the Office of Initial Patent Examination ("OIPE") for further processing.

Telephone inquiries concerning this decision on petition may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/08/09

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10067667 Patent No.: 6981227

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: The request has been approved.

_____

_____

_____

_____

_____ _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE	Art Unit
/ALEXANDER EISEN/	2629

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

Attn: Harley R. Ball
Sprint Law Department
8140 Ward Parkway
Mailstop: MOKCMP0506
Kansas City MO 64114

COPY MAILED

MAR 2 8 2003

OFFICE OF PETITIONS

In re Application of :
Christie, Wiley & Howell : LETTER
Application No. 10/067,675 :
Filed: February 4, 2002 :
Attorney Docket No. 1148a1 :
For: TELECOMMUNICATIONS SYSTEM

This letter is in response to the petition under 37 CFR 1.47(a) filed on February 4, 2002.

The petition is **GRANTED**.

In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in Application No. 08/754,349, of which the instant filing is a second generation continuation application. Furthermore, petitioner has submitted a copy of the decision, mailed on September 16, 1998, granting a petition to accord § 1.47 status to the prior application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. No fee has been or will be charged.

The Office will not forward notice of this application's filing to the legal representatives of the deceased inventor because notice regarding the filing of the prior application has already been sent to the legal representatives of the deceased inventor.

As stated in MPEP 601.04, special care should be taken in divisional applications to ensure that communications from the Office are mailed to the current correspondence address of record. The correspondence address is the address listed in the declaration. A change of address should be filed in this case in accordance with MPEP 601.03.

After this decision is mailed, the application will be forwarded to Technology Center 2600 for examination in due course.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

MAILED

AUG 19 2002

OFFICE OF DIRECTOR
GROUP

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

In re Application of
Grodzins et al.
Application No.: 10/067,683
Filing Date: February 4, 2002
For: X-RAY FLUORESCENCE ANALYZER

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed March 8, 2002 requesting that the above identified application be granted special status under the provisions of 37 C.F.R. § 1.102(c) and MPEP § 708.02 IV.

The petition is GRANTED.

The provisions of MPEP § 708.02 IV state that an "application may be made special upon filing a petition including any evidence that the applicant is 65 years of age, or more, such as a birth certificate or applicant's statement."

The present petition was accompanied by a statement from applicant Lee Grodzins declaring that he is more than 65 years of age as well as a copy of his passport. The statement and passport constitute sufficient evidence as set forth in MPEP § 708.02 IV.

Edward Westin

Edward P. Westin
Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components

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

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of
Charles L. Sawyer et al.
Application No. 10/067,705
Filed: February 4, 2002
Attorney Docket No. 02307K-141317US
Title: PURIFIED HUMAN PROSTATE CANCER CELLS

DECISION ON PETITION
UNDER § 1.183

This is a decision on the petition, filed February 28, 2005 (certificate of mail dated February 23, 2005) under 37 CFR § 1.183 for acceptance of a supplemental declaration without the signatures of all inventors as required by § 1.67.[1]

The petition is **GRANTED**.

The supplemental declarations filed February 28, 2005, are signed, in combination, by joint inventors Sawyers, Witte and Reiter. The supplemental declarations identify inventor Klein by name, address and citizenship; however, the declaration is not signed by inventor Klein. All of the joint inventors, including Klein, signed the original declaration for patent filed in this application, pursuant to § 1.63(d).

Petitioners assert that in a telephone conversation between joint inventor Klein and Applicant's agent on November 18, 2003, Ms. Klein confirmed her address. It is further asserted and shown with a copy, that a letter was sent to Ms. Klein at her last known address on July 29, 2004 with a copy of the corrected declaration. Petitioners assert that Ms. Klein has not responded with an executed supplemental oath or declaration, in spite of their diligent efforts to have her do so. Additionally, the statements made by the attorney of record have been reviewed and found adequate to make sufficient petitioner's showing that waiver of the requirement for inventor Klein's signature on the supplemental declaration is warranted. The petition includes the petition fee and a statement of the last known address of inventor Klein.

The supplemental declaration has been reviewed and found in compliance with § 1.67.

[1]The supplemental declaration was a requirement set out in a non-Final Office Action mailed August 23, 2004 and was submitted with a request for a three month extension of time.

In view of the foregoing, it is concluded that waiver of the requirement that the supplemental declaration be signed by all of the joint inventors is appropriate.

This matter is being referred back to Technology Center 1632 for further examination.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No.

ROBERT E. BUSHNELL
1522 K STREET NW
SUITE 300
WASHINGTON DC 20005-1202

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JAN 22 2008

OFFICE OF PETITIONS

In re	:	
Chun-Geun Choi	:	ON PETITION
Reissue Application No. 10/067,758	:	
Filed: February 8, 2002	:	
Atty Docket No. P54562RE	:	

This is in response to the "PETITION UNDER 37 C.F.R. §1.47(a) and (b), §1.181 AND §1.183," filed August 8, 2007. This petition is properly treated pursuant to 37 CFR 1.183[1]. The $400 petition fee has been charged to petitioner's Deposit Account, as authorized.

Petitioner requests waiver of the rule (presumably §1.172) that requires that the inventor sign any supplemental declaration in a broadening reissue application.

37 CFR § 1.172 requires that a reissue declaration be made by the inventors, except as otherwise provided (§§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged.

[1] Petitions under 37 CFR 1.47 are only applicable to an original oath or declaration and are not applicable to the reexecution of another oath or declaration by A. In such circumstances, a petition under 37 CFR 1.183 should be considered requesting waiver of the requirement of 37 CFR 1.64 that each of the actual inventors, i.e., inventor A, execute the oath or declaration, particularly where assignee consent is given to the requested correction. See MPEP 201.03.

The above-identified reissue application of patent No. 6,025,823 (Issued February 15, 2000) was filed on February 8, 2002, with a reissue application declaration executed by the sole inventor. A supplemental declaration pursuant to 37 CFR 1.175(a)(1) was required by the examiner in the Office action of May 14, 2007. The reissue oath/declaration filed with the application was defective because it failed to identify at least one error which was relied upon to support the reissue application.

In response, applicant timely filed 1) a response to the Office action, 2) a supplemental reissue application declaration including a 3.73(b) statement and a written consent of assignee, and 3) the instant petition (and fee) to accept the declaration signed by Kabtae Han, as representative of the assignee on behalf of the non-signing sole inventor. The petition also includes a statement of facts to show that diligent efforts were made to reach or find inventor Choi to have him sign the supplemental reissue declaration; (2) a statement of the last known address of the non-signing inventor; (3) evidence that the invention has been assigned to the assignee submitting the supplemental reissue declaration and (4) a statement that the filing of the application is necessary to prevent irreparable damage.

35 U.S.C. 251, which is directed to reissue, does not address the signature requirements of a declaration in reissue. 37 CFR 1.172 requires that a reissue declaration be made (and signed) by the inventors, except as otherwise provided (§§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged. 37 CFR § 1.175(b)(1), requires that:

> "For any error corrected, which is not covered by the oath or declaration submitted under paragraph (a) of this section, applicant must submit a supplemental oath or declaration stating that every such error arose without any deceptive intention on the part of the applicant."

37 CFR 1.175(b)(1), taken in conjunction with § 1.172, requires a supplemental declaration to be signed by all of the inventors. This is because all oaths or declarations necessary to fulfill the rule requirements in a reissue application are taken together collectively as a single oath or declaration. Thus, each oath and/or declaration must bear the appropriate signature of the inventors.

37 CFR 1.183 permits, in an extraordinary situation, waiver of a rule which is not a requirement of the statute, where justice requires such waiver, and applicant has requested a waiver of the requirement that the 37 CFR 1.175(b)(1) supplemental declaration be signed by the inventor.

The instant petition is accompanied by an appropriate showing that inventor Choi is unavailable to join in the supplemental reissue application declaration. A written consent of assignee and a 3.73(b) statement are of record. The showing as to extraordinary circumstances is complete, 37 CFR § 1.183 can be invoked in order to waive § 1.175.

Accordingly, this petition under 37 CFR 1.183 is granted to waive the rules. The provisions of 37 CFR 1.175(b)(1), and 37 CFR 1.172 are hereby waived to the extent that the August 8, 2007 supplemental reissue application declaration submitted with the present petition will be accepted as though it was signed by the inventor.

The application is being forwarded to Technology Center 2816 for further action by the examiner, including consideration of the response to the non-final Office action of May 14, 2007 filed August 8, 2007.

Please direct any questions related to this decision to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON DC 20006-1004

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DEC 1 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Chun-Geun CHOI	:	
Application No. 10/067,758	:	DECISION ON PETITION
Filed: February 8, 2002	:	
Attorney Docket No. P54562RE	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before June 15, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed March 13, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 16, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510; (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-6735.

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

/Diane C. Goodwyn/
Diane C. Goodwyn
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. 7

Stephen R. Whitt
1215 Tottenham Court
Reston VA 20194

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AUG 1 6 2002

OFFICE OF PETITIONS

In re Application of
Koslar, et al.
Application No. 10/067,793
Filed: February 8, 2002
Attorney Docket No. ESP-02001

DECISION GRANTING
PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed May 3, 2002 requesting, in effect, partial withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice) insofar as it pertains to missing drawing figures.

The application was deposited on February 8, 2002. On March 6, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that drawing figures 4,5,6 & 8 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 4,5,6 &8 be accorded a filing date of February 8, 2002 on the basis that 22 sheets of drawing figures, including the allegedly omitted drawing figures, were received in the Patent and Trademark Office (PTO) on February 8, 2002. In support, the petition is accompanied by a copy of applicants itemized postcard receipt showing an Office of Initial Patent Examination date stamp of February 8, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 22 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 22 sheets of drawing figures, including drawing figures 4,5,6 & 8, were filed on February 8, 2002. MPEP 503. Accordingly, the request is granted.

The $130.00 petition fee will be refunded. A treasury check will be scheduled in due course.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of February 8, 2002, using the substitute sheets of drawings submitted with the instant petition. Office records will be corrected to show that 22 sheets of drawings were present on filing.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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SUITE 500 NORTH
LAS VEGAS NV 89169

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MAR 16 2009

OFFICE OF PETITIONS

In re Patent No. 6,886,829	:	NOTICE
Issue Date: May 3, 2005	:	
Application No. 10/067,794	:	
Filed: February 8, 2002	:	
Attorney Docket No. 088168-000014	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DIW Jun-06

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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JUN 2 0 2006
OFFICE OF PETITIONS

In re Application of	:
Roschke et al.	: DECISION ON APPLICATION
Application No. 10/067,800	: FOR
Filed: 8 February, 2002	: PATENT TERM ADJUSTMENT
Atty. Dkt. No.	:
1488.11500011/EKS/HCC	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 CFR 1.705(b)," filed 11 April, 2006, requesting that the Office reconsider the determination of Patent Term Adjustment (PTA) that accompanied the Notice of Allowance. Applicants request that the initial determination of patent term adjustment be corrected from five hundred three (503) days to five hundred thirty-one (531) 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 five hundred thirty-one (531) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

BACKGROUND

On 12 January, 2006, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants was advised that the patent term

adjustment to date was 503 days. The period of adjustment of 546 days was reduced by 43 days for applicant delay.

In response, applicants timely filed the instant request for reconsideration of the patent term adjustment along with payment of the fee set forth in 37 CFR 1.18(e). Applicants request that the patent term adjustment be corrected to 531 days. The basis for this correction is 37 CFR 1.702(a)(1). Applicants contend that the patent term should be adjusted because the application was filed 8 February, 2002, and the first notification received by the Applicant, an Office action mailed by the USPTO on 5 October, 2004, fourteen months and 546 days after the application filing date, was vacated as a result of Office error. Subsequently, the Office action mailed on 5 October, 2004, was vacated, and a new Office action mailed on 2 November, 2004, setting a new time period for reply, the new Office action having been mailed fourteen months and 574 days after the application filing date.

Applicants further state that the patent issuing from the application is not subject to a terminal disclaimer and that there were no circumstances in the prosecution of the application which constituted failure to engage in reasonable efforts to conclude processing or examination.

RELEVANT STATUTES AND REGULATIONS

35 U.S.C. 154(b)(1)(A)(i) provides that:

— Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to—

(i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after—

(i) the date on which an application was filed under section 111(a) of this title; or

(II) the date on which an international application fulfilled the requirements of section 371 of this title;

37 CFR § 1.702 provides that:

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

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

37 CFR § 1.703 provides, in pertinent part, that:

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

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

OPINION

Applicants' arguments and evidence have been considered, in light of the application history, and it has been determined that the initial period of adjustment pursuant to § 1.702(a)(1) should be adjusted because a review of the record reveals that the Office action mailed on 5 October, 2004, omitted page 1. Therefore, the Office action mailed on 5 October, 2004, was incomplete. As such, the Office did not mail a proper first notification under 132 on 5 October, 2004.

Thus, it is concluded that, in this instance, the remailing of the action under 35 U.S.C. 132 did constitute a delay by the Office in the issuance of the patent within the meaning of 35 U.S.C. 154(b).

In view thereof, applicants received a complete and proper restriction requirement on 2 November, 2004, rather than 5 October, 2004. As the Office action mailed on 2 November, 2004, was mailed fourteen months and 574 days after the filing of the application on 8 February, 2002, applicant's request for adjustment of the patent term by 28 days is granted.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is five hundred thirty-one (531) days.

CONCLUSION

In view thereof, the petition is GRANTED.

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

The application file is being forwarded to the Office of Patent Publications for issuance of the patent.

Telephone inquiries regarding this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

PTA Calculations for Application: 10/067800			
Application Filing Date:	02/08/2002	PTO Delay (PTO):	546
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	43
Post-Issue Petitions:	0	Total PTA (days):	531
PTO Delay Adjustment:	28		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
69	06/15/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		546	
68	06/15/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	574		
51	01/12/2006	MAIL NOTICE OF ALLOWANCE			
50	01/12/2006	MAIL FORMAL DRAWINGS REQUIRED			
49	01/09/2006	ISSUE REVISION COMPLETED			
48	01/09/2006	FORMAL DRAWINGS REQUIRED			
47	01/09/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
46	01/09/2006	CASE DOCKETED TO EXAMINER IN GAU			
45	01/09/2006	NOTICE OF ALLOWABILITY			
44	12/10/2005	DATE FORWARDED TO EXAMINER			
43	12/05/2005	AMENDMENT AFTER FINAL REJECTION			
42	10/05/2005	MAIL FINAL REJECTION (PTOL - 326)			
41	10/03/2005	FINAL REJECTION			
40	07/11/2005	DATE FORWARDED TO EXAMINER			
39	06/30/2005	RESPONSE AFTER NON-FINAL ACTION			
38	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
37	06/01/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	04/05/2005	MAIL NON-FINAL REJECTION			
35	04/04/2005	NON-FINAL REJECTION			
34	02/15/2005	REFERENCE CAPTURE ON IDS			
33	02/15/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		43	29
32	01/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	01/03/2005	PRELIMINARY AMENDMENT			

30	01/14/2005	DATE FORWARDED TO EXAMINER			
29	01/03/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
28	01/03/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	01/03/2005	WORKFLOW INCOMING AMENDMENT IFW			
26	11/02/2004	MAIL NOTICE OF WITHDRAWN ACTION			
25	11/02/2004	MAIL RESTRICTION REQUIREMENT			
24	11/01/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
23	11/01/2004	LETTER WITHDRAWING / VACATING OFFICE ACTION			
22	10/05/2004	MAIL RESTRICTION REQUIREMENT	546		-1
21	10/01/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
20	08/25/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	08/12/2004	REFERENCE CAPTURE ON IDS			
18	08/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	07/27/2004	CASE DOCKETED TO EXAMINER IN GAU			
16	04/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
15	07/24/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	07/08/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	09/10/2002	CASE DOCKETED TO EXAMINER IN GAU			
12	08/19/2002	CASE DOCKETED TO EXAMINER IN GAU			
11	06/25/2002	APPLICATION DISPATCHED FROM OIPE			
10	06/11/2002	APPLICATION IS NOW COMPLETE			
9	06/03/2002	ADDITIONAL APPLICATION FILING FEES			
8	06/03/2002	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
7	04/01/2002	CORRECTED PAPER			
5	03/06/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
4	02/20/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	02/08/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
2	02/08/2002	INITIAL EXAM TEAM NN			

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WASHINGTON DC 20005

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AUG 30 2007

OFFICE OF PETITIONS

In re Patent No. 7,175,988	:	
Issued: 13 February, 2007	:	
Application No. 10/067,800	:	DECISION ON APPLICATION
Filed: 8 February, 2002	:	FOR PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
1488.115000I	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. §1.705(d)" filed on 12 April, 2007. In effect, patentees request that the determination of patent term extension of five hundred thirty eight (538) days in this application be corrected to a determination of patent term adjustment of six hundred (600) days.

The petition is **GRANTED** to the extent indicated.

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

On 13 February, 2007, the above-identified application matured into U.S. Patent No. 7,175,988. The instant request for reconsideration filed on 12 April, 2007, was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 538 days.

Applicants state that the patent is not subject to a terminal disclaimer.

Applicants dispute the reduction of 120 days for the filing of the Supplemental Information Disclosure Statement after the mailing of the Notice of Allowance and the reduction of 62 days for the filing of the supplemental paper filed on 14 December, 2006.

A review of the application file reveals that applicants filed a Supplemental Information Disclosure Statement (IDS) on 1 February, 2006, after the mailing of the Notice of Allowance on 12 January, 2006. The IDS did not contain a proper 37 C.F.R. § 1.704(d) statement. The IDS contained a statement that "Each item contained in this Information Disclosure Statement was cited in **a** communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of **this** information disclosure statement." § 1.704(d) states that an IDS will not be considered a failure to engage under (c)(8) if it is accompanied by a statement that "each item of information contained in the information disclosure statement was first cited in **any** communication from a foreign patent office in a counterpart application and that this communication was not received by any individual more than thirty days prior to the filing of **the** information disclosure statement."

Applicants should have mirrored the language as required by § 1.704(d). Accordingly, applicant delay of one hundred twenty (120) days was properly assessed pursuant to 37 C.F.R. § 1.704(c)(8).

If applicants want to make the proper assertion, then applicants may file a Request for Reconsideration of this patent term adjustment decision, with a statement mirroring the language of § 1.704(d). Patentees are given **two (2) months** to respond to this decision. No additional fee is required. No extensions of time will be granted under 37 C.F.R. § 1.136(a).

With regard to the reduction of sixty-two (62) days of patent term adjustment, this reduction was based on the filing of the Interview Summary which was filed on 12 April, 2006. Such a paper is not identified as one of the papers the filing of which the Director has specifically deemed not be a "failure to engage

in reasonable efforts" within the meaning of 37 CFR 1.704(c)(10). Nonetheless, under the circumstances of this case, it is concluded that the filing of applicants' Interview Summary is not a failure to engage within the meaning of 37 CFR 1.704(c)(10). Thus, it is concluded that the reduction of sixty-two (62) days is not warranted.

In view thereof, the patent term adjustment indicated on the patent should be six hundred (600) days.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by SIX HUNDRED (600) days.

Telephone inquiries with regard to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272 - 3231.

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 : 7,175,988 B2

DATED : February 13, 2007

INVENTOR(S) : Viktor Roschke

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 (538) days

Delete the phrase "by 538 days" and insert – by 600 days--

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

BLANK ROME COMISKY & McCAULEY LLP
900 17TH STREET NW, SUITE 1000
WASHINGTON, DC 20006

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APR 3 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Chad R. Smith	:	
Application No. 10/067,849	:	DECISION GRANTING PETITION
Filed: February 8, 2002	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. 105967-00625	:	

This is a decision on the petition, filed April 22, 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 February 7, 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 corrected Filing Receipt which sets forth the projected publication date of August 14, 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 3723 to await a reply to the Office action mailed April 17, 2003. Failure to timely reply will again result in the abandonment of the application.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 10

AT&T CORP.
P.O. BOX 4110
MIDDLETOWN NJ 07748

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SEP 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Cox et al. :
Application No. 10/067,851 : DECISION ON PETITION
Filed: February 7, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 2001-0330 :

This is a decision on the petition, filed May 14, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the present nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is dismissed as **MOOT.**

Petitioner states that the present nonprovisional application became the subject of a counterpart application filed in an eighteen-month country on January 28, 2003. A review of the file record discloses that a Notice to Rescind was received in the USPTO on January 27, 2003.

Where an applicant makes a nonpublication request under 35 U.S.C. 122(b)(2)(B)(i) and then rescinds (pursuant to 35 U.S.C. 122(b)(2)(B)(ii)) the nonpublication request **before or on the date a counterpart application is filed in an eighteen-month publication country**, the nonpublication request will be treated as annulled and the application will be treated as if the nonpublication request had never been made. *See* Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2))(B)(ii)-(iv), 1272 OG 1 (July 1, 2003), available at http://www.uspto.gov/web/patents/patog/week26/.

In the present application, a notice to rescind was filed prior to the filing date of a counterpart application in an eighteen month publication country. Therefore, since receipt in the USPTO of the request to rescind prior to the filing date of a

counterpart application in an eighteen-month publication country resulted in the annulling of the nonpublication request, this application is not regarded as abandoned. As such, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue.

This application is not in fact abandoned. For the reason stated above, no petition fee is being charged.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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February 12, 2004

William P. Smith
DKW Law Group
58th Floor, USX Tower
600 Grant St.
Pittsburgh, PA 15219

In re application of:
Wise, Mark, et al
Serial No.: 10/067,959
Filed: February 5, 2002

DECISION ON PETITION

For: METHOD, SYSTEM AND APPARATUS FOR CREATING AND ACCESSING A HIERARCHICAL DATABASE IN A FORMAT OPTIMALLY SUITED TO REAL ESTATE

This is a decision on the petition received by fax on January 28, 2004, 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 March 6, 2002. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned May 7, 2002. A notice of abandonment was mailed on January 26, 2004.

On January 28, 2004, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney responded to the Notice to File Missing Parts on April 2, 2002.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts on April 2, 2002 with a certification of mailing dated March 26, 2002.

The petition is hereby GRANTED.

The application has been completed for release to Technology Center 2171.

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

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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February 12, 2004

William P. Smith
DKW Law Group
58th Floor, USX Tower
600 Grant St.
Pittsburgh, PA 15219

In re application of:
Wise, Mark, et al
Serial No.: 10/067,959
Filed: February 5, 2002

DECISION ON PETITION

For: METHOD, SYSTEM AND APPARATUS FOR CREATING AND ACCESSING A HIERARCHICAL DATABASE IN A FORMAT OPTIMALLY SUITED TO REAL ESTATE

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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 Missing Parts of Application mailed March 6, 2002. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned May 7, 2002. A notice of abandonment was mailed on January 26, 2004.

On January 28, 2004, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney responded to the Notice to File Missing Parts on April 2, 2002.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts on April 2, 2002 with a certification of mailing dated March 26, 2002.

The petition is hereby GRANTED.

The application has been completed for release to Technology Center 2171.

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

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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BUCHANAN INGERSOLL PC
(ARCHER DANIELS MIDLAND COMPANY)
301 GRANT STREET, 20TH FLOOR
PITTSBURGH, PA 15219

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JUN 01 2005

OFFICE OF PETITIONS

In re Application of
Lhing-Yew Li et al
Application No. 10/067,974
Filed: February 8, 2002
Attorney Docket No. 030738

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition filed April 7, 2005 and resubmitted on April 11, 2005, which is being treated under 37 CFR 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the Application Data Sheets (ADS's) filed on April 7 and 11, 2005.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The 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 ADS fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Further, the ADS claims priority Application No. 60/173,207, whereas it appears that the correct application number is 60/173,707, as Application No. 60/173,207 does not have at least one inventor in common with the prior-filed application.

Accordingly, before the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) and a substitute amendment[1] or an ADS which sets forth the relationship of the prior-filed applications is required.

37 CFR 1.78(a)(3) and 1.78(a)(6) require 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. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.78(a)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.78(a)(3).

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

By mail: Mail Stop PETITIONS

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[1] *Note* 37 CFR 1.121

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

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

Frances Hicks
Lead 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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BUCHANAN INGERSOLL PC
(ARCHER DANIELS MIDLAND COMPANY)
301 GRANT STREET, 20TH FLOOR
PITTSBURGH, PA 15219

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AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of
Lhing-Yew Li et al
Application No. 10/067,974
Filed: February 8, 2002
Attorney Docket No. 030738

: DECISION ON PETITIONS
: 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) and 37 CFR 1.78(a)(6), filed June 14, 2005, , to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(iii) and 1.78(a)(5)(iii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment

to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been previously submitted; and (3) a proper statement of unintentional delay has been previously submitted. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

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 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. 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 inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1652 for appropriate action on the amendments filed June 14, 2005, including 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 nonprovisional application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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In re Application of
Chunhua YAN et al
Serial No. 10/067,977
Filed: February 2, 2002
Title: ISOLATED HUMAN KINASE PROTEINS, NUCLEIC ACID MOLECULES ENCODING HUMAN KINASE PROTEINS, AND USES THEREOF.

January 15, 2004

This is a decision on the petition to request inventorship under 37 C.F.R. § 1.48(a) filed November 3, 2003.

The petition has been reviewed and it is found to be in compliance with the requirements as set forth in MPEP §1481. Accordingly, the petition is granted.

Petition GRANTED.

Ponnathapura N. Achutamurthy
Supervisory Patent Examiner
Art Unit 1652

Justin D. Karjala
Celera Genomics Corporation
45West Gude Drive, C2-4#20
Rockville, MD 20850

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Lance G. Johnson
Roylance, Abrams, Berdo & Goodman, L.L.P.
1300 19th Street, NW
Suite 600
Washington, D.C. 20036

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SEP 0 6 2005

OFFICE OF PETITIONS

In re Application of:
GAYLAN, Jesse
Application No.: 10/067,987
Filing Date: February 8, 2002
Attorney's Docket No.: 41775
For: MASKING AGENTS FOR AGRICHEMICALS

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

This is a decision on the petition under 37 CFR 1.137(b), filed April 07, 2005 to revive the above-entitled application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed June 15, 2004, which set a shortened statutory period for reply of three (3) months. A response was not filed and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned at midnight on September 15, 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 to the Office action mailed June 15, 2004; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of June 15, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Attorney-Advisor, Anthony Smith at (571) 272-3298 or in his absence, the undersigned at (571) 272-3217.

The application is being referred back to GAU 1743 further processing.

Frances Hicks for

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

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JONATHAN E. GRANT
2107 HOUND RUN PLACE
SILVER SPRING, MD 20906

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OCT 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Vincent Fischetti, et al. :
Application No. 10/067,995 : ON PETITION
Filed: February 8, 2002 :
Attorney Docket No. NH-Methon Upper :

This is a decision on the petition under 37 CFR 1.137(b), filed October 7, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed January 7, 2005, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. An Advisory action was mailed August 3, 2005 indicating that the reply filed on July 7, 2005, failed to place the application in condition for allowance. Accordingly, the application became abandoned on July 8, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment and a Request for Continued Examination (RCE); (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed October 7, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 1600, Art Unit 1651 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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MILLEN WHITE ZELANO & BRANIGAN, PC
2200 CLARENDON BLVD
SUITE 1400
ARLINGTON, VA 22201

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DEC 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Ruiping Liu et al :
Application No. 10/067,996 : ON PETITION
Filed: February 8, 2002 :
Attorney Docket No. MEMORY-2 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 6, 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 May 17, 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 1624 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

[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

WAYNE J. COLTON INC.
THE MILAM BUILDING SUITE 1032
115 EAST TRAVIS STREET
SAN ANTONIO, TX 78205

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SEP 27 2006

OFFICE OF PETITIONS

In re Application of	:	
David M. Tumey	:	
Application No. 10/068,049	:	ON PETITION
Filed: January 4, 2002	:	
Attorney Docket No. 1052.1301	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 3, 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 above-identified application became abandoned on January 4, 2004.

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

This application is being forwarded to Technology Center AU 3762 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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Paper No. 8

FOLEY & LARDNER
FIRSTAR CENTER
777 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-5367

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AUG 1 9 2003

OFFICE OF PETITIONS

In re Application of :
William F. McDonald et al :
Application No. 10/068,054 :
Filed: February 5, 2002 : DECISION NOTING JOINDER OF
For: ANTIMICROBIAL POLYMER : INVENTOR AND PETITION UNDER
: 37 CFR 1.47(a) MOOT

Papers filed on July 30, 2003, includes a Declaration signed by previously nonsigning inventor Zhi-Heng Huang in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application is being forwarded to Technology Center 1600 for examination in due course.

Inquiries related to this decision may be addressed to Irvin Dingle at (703) 306-5684.

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

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Fish & Richardson
225 Franklin Street
Boston, MA 02110-2804

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JUN 20 2005

OFFICE OF PETITIONS

In re Application of
Mizzen et al.
Application No. 10/068,059
Filed: February 2, 2002
Attorney Docket No. 12071-017002/SP-22
US

: DECISION GRANTING PETITION

This decision is in response to Applicants" "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(B) timely[1] filed September 14, 2004 requesting that the Office adjust the PAIR determination of PTA from a value of (zero) to a value of eleven (11) days.

Applicants' application for PTA is **GRANTED.** The Office will adjust the PTA calculation to reflect a value of eleven (11) days at the time of the mailing of the notice of allowance. The Office will adjust the PAIR calculation to reflect a value of eleven days.

Applicants assert that the Office erred in assessing a thirty-three (33) day reduction for an overdue three month reply to the Notice to File Missing Parts. Applicants assert that the complete response to the notice was filed on June 4, 2002 rather than Office determined date of June 17, 2002. Applicants have supplied a post card stamped receipt reflecting the date that the response to the missing parts was received within the USPTO. Applicants agree with the other PTA determinations of seventy-six days of PTA for the office to initially act upon the application within fourteen months of the filing date. See 37 CFR 1.702(a)(1).In addition applicants agree with the sixty-five (65) day reduction for the applicants' failure to reply to the non-final rejection outside of the three month period . See 37 CFR 1.704(b).

Applicants arguments are persuasive. The post card stamped receipt reflect that the date of response was in fact received by the Office on June 4, 2002 rather than July 18, 2202. Accordingly, applicants response is within the three month time period granted by the Office to reply without PTA consequences and therefore the PTA reduction for applicant delay in responding to the Notice to File Missing Parts is in error. Accordingly, the Office's assessment for a thirty-three day applicant delay for a late response to the Notice to File Missing Parts is in error. Accordingly, the correct determination at the time of the mailing of the notice of allowance is eleven days (76-65=11).

After the mailing of this decision, the Office will forward this application to the Office of Patent Publication for a prompt issuance of the patent. The Office apologizes for any delay in issuance of the patent and notes that any administrative delay for the issuance of the patent beyond four months of the payment of the issue fee and other requirements being satisfied will be assessed at

[1]Issue fee was paid on September 14, 2004.

the time of the issuance of the patent and such notice will be provided in the issue notification letter.

The Office has assessed the $200.00 fee for the filing of this application under 37 CFR 1.18(e). No additional fees are required by the Office.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

/Kery A Fries/ vce

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

cc: Copy of Adjusted PAIR calculation

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/18/06

TO SPE OF : ART UNIT **1648**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/068059 6921534

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

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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

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

Comments:

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

SPE

1648
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEWIS, RICE & FINGERSH, LC
ATTN: BOX IP DEPT.
500 NORTH BROADWAY
SUITE 2000
ST LOUIS MO 63102

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AUG 2 3 2005

OFFICE OF PETITIONS

In re Application of
Cory Nykoluk
Application No. 10/068,060
Filed: February 5, 2002
Attorney Docket Number: 26/1159US

: NOTICE

This is a notice regarding your request filed on September 2, 2004, for acceptance of a fee deficiency submission under 37 CFR 1.28 (c).

37 CFR 1.28 (c) states: "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full." Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby accepted.

The change in status to a large entity has been entered and made of record.

This case however remains abandoned.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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JUL 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Russell John Pylkki, et al. :
Application No. 10/068,070 : ON PETITION
Filed: February 6, 2002 :
Attorney Docket No. 9340.966US01 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 30, 2004 to withdraw the above-identified application from issue after payment of the issue fee.

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 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]

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

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

The application is being forwarded to Technology Center AU 3635 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

cc: Keats A. Quinalty
Womble Carlyle Sandridge & Rice, P.L.L.C.
P.O. Box 7037
Atlanta, GA 30357-0037

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

Schlumberger Technology Corporation
14910 Airline Road
P.O. Box 1590
Rosharon, TX 77583-1590

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AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of
McHugh, et al.
Application No.10/068,076
Filed: February 6, 2002
Attorney Docket Number: 89.0486

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed on May 6, 2002 under 37 CFR §1.47(a).

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR §1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. 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 February 6, 2002, without an executed oath or declaration. Accordingly, on March 4, 2002, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a $130.00 surcharge for its late filing.

In response, on May 6, 2002, applicant filed a petition, $130.00 surcharge, and a partially executed oath.

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

Applicant lacks item (1) as set forth above. Rule 47 applicant states inventor D'Arcy can not be located. Rule 47 applicant provided an affidavit from Cherita Persons-Grimstead that indicates rule 47 applicant contacted co-inventor Mc Hugh for a current address on inventor D'Arcy. Inventor McHugh indicated he did not have any current information on inventor D'Arcy but recommended contacting RMS the former employer of inventor D'Arcy. A series of e-mails indicate RMS was unable to locate the personnel file of Des D'Arcy.

Rule 47 applicant has failed to provide sufficient facts that would prove diligent efforts were made to locate inventor D'Arcy. Additional efforts need to be demonstrated to illustrate diligent effort. Rule 47 applicant may wish to consult telephone directories,

the Internet, national registries etc. in an effort to locate the inventor. Rule 47 applicant has solely relied on the former employer (RMS) of inventor D'Arcy to provide any forwarding information.

Furthermore, where an inventor does not execute the oath or declaration, rule 47 applicant must provide the most recent home address of the inventor. See MPEP 605.03. Inventor D'Arcy's most recent home address must be provided to enable the Office to communicate directly with the inventor if necessary. Rule 47 applicant can be submitted by a supplemental declaration pursuant to 37 CFR 1.67 or an application data sheet pursuant to 37 CFR 1.76.

Upon renewed petition, rule 47 applicant may wish to state any additional actions that have been taken in an attempt to locate inventor D'Arcy to establish diligent effort was used to locate inventor D'Arcy. If inventor D'Arcy is located a copy of the patent application should be forwarded to his mailing address.

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

By mail:	Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA 22202

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 8

Schlumberger Technology Corporation
14910 Airline Road
P.O. Box 1590
Rosharon, TX 77583-1590

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OCT 25 2002

OFFICE OF PETITIONS

ON RENEWED PETITION

In re Application of
Marcus D. McHugh, Lee S. Kobylinski and Des D'arcy
Application No.10/068,076
Filed: February 6, 2002
Attorney Docket Number: 89.0486

This is in response to the renewed petition under 37 CFR 1.47(a), filed October 4, 2002.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

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

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

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

The opinion in support of the decision being entered today was ***not*** written for publication is ***not*** binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MAILED
JUN 30 2005
U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DANIEL M. JUDGE

Appeal No. 2005-1260
Application 10/068,078

DECISION ON PETITION

This is in response to the petition filed June 14, 2005, requesting that the above identified application be granted Special Status under M.P.E.P. Section 708.02 IV.

The petition has been considered and found to comply with all the requirements set forth under M.P.E.P. Section 708.02 IV. Accordingly, the petition is granted.

The above identified application has already been assigned a date of August 9, 2005, for an Oral Hearing.

PETITION GRANTED

By: Michael R. Fleming
MICHAEL R. FLEMING
Chief Administrative Patent Judge
BOARD OF PATENT APPEALS
AND INTERFERENCES

Charles Hieken, Esq.
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110

MRF:crf

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Daniel M. Judge	:	DECISION ON PETITION
Application No. 10/068,078	:	UNDER 37 CFR 1.137(b)
Filed: February 5, 2002	:	
Attorney Docket No.13808-002001	:	

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

The application became abandoned in view of the decision by the Board of Patent Appeals and Interferences rendered on August 24, 2005, and because the period for seeking court review of the decision had expired and there were no allowed claims.

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

This matter is being referred to Technology Center Art Unit 2859.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/22/05

TO SPE OF : ART UNIT **2113**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/068079 6941492

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

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

A. Green

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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

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

Comments:

_____

_____

_____

_____

_____

Robert W Beausoleil

SPE

2113

Art Unit

PTO/SB/44 (02-01)
Approved for use through 01/31/2004. 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 : 6,941,492
DATED : September 6, 2005
INVENTOR(S) : Josef Ezra et al.

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

Column 1, line 61, reads "associating" and should read --associated--.

Column 5, line 25, reads "various host system a bus 78," and should read --host system via a bus 78,--.

Column 6, line 1, reads "("referred to as a "global memory")." and should read --(referred to as a "global memory").--.

Column 6, line 29, reads "also communicates" and should read --also communicate--.

Rob,
All corrections are okay.

Mike

MAILING ADDRESS OF SENDER:
DALY, CROWLEY, MOFFORD & DURKEE, LLP
354A Turnpike Street, Suite 301A
Canton, MA 02021-2714

PATENT NO. 6,941,492

No. of additional copies
⇨ 1

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comment on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

DEC 12 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

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APR 25 2006
OFFICE OF PETITIONS

In re Application of Carlson :
Application No. 10/068,106 : Decision on Petition
Filing Date: February 6, 2002 :
Attorney Docket No. PANG-1-1002 :

This is a decision on the petition under 37 CFR 1.137(a), filed April 12, 2006, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

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

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

Facts:

The application was filed on February 6, 2002.

Petitioner's office relocated. As a result, on October 14, 2004, petitioner requested the Office associate the application with customer number 25315.

The Office failed to change the correspondence address to the address associated with customer number 25315.

A non-final Office action was mailed to the old, incorrect address on May 12, 2005.

The USPS returned the Office action undelivered on May 20, 2005.

Discussion:

Petitioner contends, and the Office agrees, the May 12, 2005 Office action was mailed to an incorrect address.

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

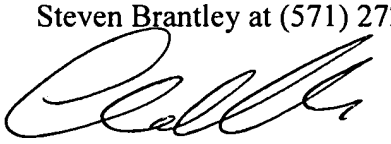
Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee of

$250 submitted for the petition under 37 CFR 1.137(a) will be credited to petitioner's deposit account.

As a courtesy, the Office wishes to remind petitioner to ensure all future papers indicate the correspondence address should be the correspondence address associated with customer number 25315. The fee transmittal letter filed with the petition states, "Direct all communications to: Richard T. Black, Esq., Black Lowe & Graham, 701 Fifth Avenue...." The address on the fee transmittal letter does not include any reference to customer number 25315. In the future, the Office may interpret such an instruction as an indication that to change the correspondence address to the specific address.

Technology Center Art Unit 3621 will be informed of the instant decision and the amendment filed April 12, 2006, will be 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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701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

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APR 26 2006
OFFICE OF PETITIONS

COPY MAILED
APR 25 2006
OFFICE OF PETITIONS

In re Application of Carlson :
Application No. 10/068,106 : Decision on Petition
Filing Date: February 6, 2002 :
Attorney Docket No. PANG-1-1002 :

This is a decision on the petition under 37 CFR 1.137(a), filed April 12, 2006, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

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

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

Facts:

The application was filed on February 6, 2002.

Petitioner's office relocated. As a result, on October 14, 2004, petitioner requested the Office associate the application with customer number 25315.

The Office failed to change the correspondence address to the address associated with customer number 25315.

A non-final Office action was mailed to the old, incorrect address on May 12, 2005.

The USPS returned the Office action undelivered on May 20, 2005.

Discussion:

Petitioner contends, and the Office agrees, the May 12, 2005 Office action was mailed to an incorrect address.

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

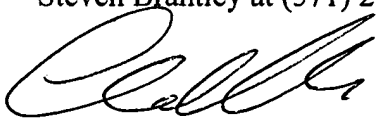
Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee of

$250 submitted for the petition under 37 CFR 1.137(a) will be credited to petitioner's deposit account.

As a courtesy, the Office wishes to remind petitioner to ensure all future papers indicate the correspondence address should be the correspondence address associated with customer number 25315. The fee transmittal letter filed with the petition states, "Direct all communications to: Richard T. Black, Esq., Black Lowe & Graham, 701 Fifth Avenue...." The address on the fee transmittal letter does not include any reference to customer number 25315. In the future, the Office may interpret such an instruction as an indication that to change the correspondence address to the specific address.

Technology Center Art Unit 3621 will be informed of the instant decision and the amendment filed April 12, 2006, will be 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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SUITE 301A
354A TURNPIKE STREET
CANTON, MA 02021-2714

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FEB 0 3 2010

OFFICE OF PETITIONS

In re Patent of Feniosky Pena-Mora et al. :
Patent No. 7,349,863 :
Issue Date: March 25, 2008 :
Application No. 10/068,119 :
Filing Date: February 6, 2002 :
Attorney Docket No. MIT-086AUS :

Letter

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed November 24, 2009.

Patentees have provided evidence establishing patentees originally filed a submission under 37 CFR 1.28(c) on December 17, 2007. Unfortunately, the original submission cannot be located in the application file. Therefore, this decision is based on the copy of the submission supplied on November 24, 2009.

The deficiency payment of $1,452 is hereby accepted.

The change of status to large entity has been entered and made of record.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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THE LUBRIZOL CORPORATION
29400 LAKELAND BOULEVARD
WICKLIFFE, OH 44092

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AUG 2 7 2004

OFFICE OF PETITIONS

In re Application of :
Daly et al. :
Application No. 10/068,138 : ON PETITION
Filed: February 5, 2002 :
Attorney Docket No. 2861-02 :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3), filed October 17, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of prior-filed nonprovisional App. No. 09/152,852, filed on September 14, 1998, set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR §§ 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR §§ 1.78(a)(3), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the above-noted prior-filed application.

The instant pending nonprovisional application was filed on February 5, 2002, and was pending at the time of filing of the instant petition. While a reference to the prior-filed application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR §§ 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §§ 1.78(a)(3).[1] In the instant case, the Office noted the claim for priority of the prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

In view of the above, the $1330.00 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 Paralegal Liana Chase at (703) 306-0482. After September 28, 2004, any questions may be directed to (571) 272-3206. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Examiner of Technology Center AU 1764 for appropriate action on the amendment filed October 17, 2003, including consideration of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for benefit of the prior-filed application.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper 15

WHYTE HIRSCHBOECK DUDEK S C
555 EAST WELLS STREET
SUITE 1900
MILWAUKEE WI 53202

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APR 29 2004

OFFICE OF PETITIONS

In re Application of :
Hock Chuan Tan et al. :
Application No. 10/068,159 :
Filed: February 5, 2002 :
Attorney Docket No. MTI-31608 :

ON PETITION

This is a decision on the petition filed by facsimile transmission on January 6, 2004 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned November 27, 2003 for failure to timely pay the issue fee on or before November 26, 2003. Accordingly, a Notice of Abandonment was mailed January 5, 2004.

The issue fee having been properly remitted in accordance with 37 CFR 1.18 on January 6, 2004 and all other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 19

WHYTE HIRSCHBOECK DUDEK S C
555 EAST WELLS STREET
SUITE 1900
MILWAUKEE, WI 53202

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MAY 19 2004

OFFICE OF PETITIONS

In re Application of
Hock Chuan Tan, et al.
Application No. 10/068,159
Filed: February 5, 2002
Attorney Docket No. MTI-31608

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 17, 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 January 6, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries 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 2818 for further processing of the request for continued examination under 37 CFR 1.114 filed May 7, 2004.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/08/06

TO SPE OF : ART UNIT 1645

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/068160** Patent No.: **6977245**

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

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

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

Certificates of Correction Branch

703-308-9390 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

1632

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

APR 11 2002

Paper No. 4

In re Application of :
Georges A. Guiochon :
Serial No. 10/068,174 : DECISION ON PETITION
Filed: February 6, 2002 : TO MAKE SPECIAL
For: METHOD AND APPARATUS TO :
PACK HIGH EFFICIENCY :
COLUMNS FOR CHROMATOGRAPHY:

Applicant's petition, filed February 6, 2002, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

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(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Howard Eisenberg
601 S.W. Second Avenue, Suite 1600
Portland, OR 97204

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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NOV 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Francis C. Van Asten	:	
Application No. 10/068,191	:	ON PETITION
Filed: February 5, 2002	:	
Attorney Docket No. 2627.07US01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on August 29, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply to the non-final Office action mailed December 21, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to Technology Center Art Unit 2633, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: ALTERA LAW GROUP, LLC
6500 CITY WEST PARKWAY
SUITE 100
MINNEAPOLIS, MN 55344-7704

UNITED STATES 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

LEON I. EDELSON, ESQ.
LEVENFELD PEARLSTEIN
P.O. BOX 0212
CHICAGO IL 60690-0212

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JUL 2 8 2003

OFFICE OF PETITIONS

In re Application of
Caprio
Application No. 10/068,194
Filed: February 5, 2002
Attorney Docket No. 31287-36223
FOR: NURSING GARMENT AND SUPPORT BRA

DECISION DISMISSING PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed February 24, 2003, to revive the above-identified application.

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

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

The above-identified application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers, mailed February 28, 2002, which set a period for reply of two (2) months. No timely reply was filed. Thus, this application became abandoned on April 29, 2002. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Petitioner alleges that he did not receive the February 28, 2002 Notice.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof; (2) the petition fee as set forth in § 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section. This petition does not satisfy requirement (3).

With respect to (3), the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the

outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable". 35 USC § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term 'unavoidable' "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

The showing required to establish nonreceipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

A review of the record indicates no irregularity in the mailing of the February 28, 2002 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

Petitioner has not proven nonreceipt because (1) practitioner did not include a statement that a thorough search of the file jacket and docket records was conducted and (2) practitioner did not include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed. Since the docket record was not included, obviously practitioner did not satisfy the "reference the docket record in his statement" requirement.

ALTERNATIVE VENUE

If petitioner is unable to provide persuasive documentary evidence of unavoidable delay, 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 an 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 can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioners intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). The current 137(b) fee for a small entity is $650. The applicable forms are enclosed for petitioner's convenience.

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

Enclosures: blank PTO/SB/64-- PETITION FOR REVIVAL OF AN APPLICATION ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

LEON I. EDELSON, ESQ.
LEVENFELD PEARLSTEIN
P.O. BOX 0212
CHICAGO IL 60690-0212

COPY MAILED

SEP 2 6 2003

OFFICE OF PETITIONS

In re Application of :
Caprio :
Application No. 10/068,194 : DECISION GRANTING
Filed: February 5, 2002 : PETITION
Attorney Docket No. 31287-36223 :
FOR: NURSING GARMENT AND SUPPORT BRA

This is a decision on the petition under 37 CFR 1.137(b), filed September 11, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers (Notice), mailed February 28, 2002, which set a period for reply of two (2) months. No timely reply was filed. Thus, this application became abandoned on April 29, 2002. The filing of the instant petition precedes the mailing of A Notice of Abandonment. Applicant's petition to revive under the unavoidable standard of 37 CFR 1.137(a), filed February 24, 2003, was dismissed on July 28, 2003 for failure to show the entire delay in replying to the February 28, 2002 Notice was unavoidable.

Applicant has submitted a proper reply in the form of a sheet of substitute drawings, an acceptable statement of the unintentional nature of the delay in responding to the February 28, 2002 Notice, and the petition fee.

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

After the mailing of this decision the application will be forwarded to OIPE for further processing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

Attorney Docket No: 27734-93149
PATENT

FEB 2 0 2003

#8

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Tyler Tierney et al.

Serial No.: 10/068,196

Filed: February 4, 2002

For: STEERABLE IN-LINE STREET SKI

RECEIVED
FEB 2 0 2003
OFFICE OF PETITIONS

REQUEST TO REMAIL THE DECISION ON PETITION AND
TO RESTART THE PERIOD FOR RESPONSE
BASED ON FAILURE TO RECEIVE THE DECISION ON PETITION

Box DAC: Attention: Office of Petitions
Honorable Assistant Commissioner
for Patents
Washington, D.C. 20231

Sir:

On February 17, 2003 undersigned counsel for applicants reviewed the United States Patent and Trademark Office web site and learned that the a decision dismissing applicants' petition was mailed on November 4, 2002.

In accordance with the procedure at Section 710.06 of the Manual of Patent Examining Procedure (MPEP) the undersigned states that the Decision on Petition mailed November 4, 2002 was not received by practitioner. Further, the undersigned states that a search of the file jacket and docket records indicates that the Decision on Petition mailed November 4, 2002 was not received. The docket record (copy enclosed as Exhibit A) shows all entries from the 04 February 2002 application filing through the reminder notice of 24 January 2005. The docket record reflects that the Decision on Petition mailed November 4, 2002 was not received. A copy of the file jacket where the Decision on Petition would have been recorded had it been received is

attached as Exhibit B. It is evident from our docket record, file jacket and a search of other places that the Decision on Petition mailed November 4, 2002 was not received.

Conclusion.

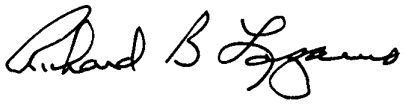
In view of the above, it is apparent that the Decision on Petition mailed November 4, 2002 was not properly mailed or delivered and that applicants did not receive it.

Accordingly, applicants request that the Decision on Petition mailed November 4, 2002 be promptly remailed and that the time period for response be restarted. It is further requested that a copy of the decision be sent via facsimile to undersigned counsel at 202-289-1330.

In view of the above facts, it is submitted that this request is properly considered under 37 C.F.R. 1.181(a) without any petition fee.

Respectfully submitted,

BARNES & THORNBURG



Richard B. Lazarus
Reg. No. 48,215
(202) 371-6348

67186v1

List Of Actions

Action(s) Due	Due Date		Action Taken
FILE APPLN:BAR DATE IN 1M	05-Jan-2002	Reminder	04-Feb-2002
FILE APPLN:BAR DATE	05-Feb-2002	Due Date	04-Feb-2002
RESPONSE DUE 1 MONTH	28-Mar-2002	Reminder	28-Aug-2002
RESPONSE DUE	28-Apr-2002	Due Date	28-Aug-2002
IDS DUE	04-May-2002	Due Date	08-Nov-2002
RESPONSE (1 MO EXTENSION)	28-May-2002	Due Date	28-Aug-2002
IDS (1 MONTH EXTENSION)	04-Jun-2002	Reminder	08-Nov-2002
RESPONSE (2 MO EXTENSION)	28-Jun-2002	Due Date	28-Aug-2002
IDS(2 MONTH EXTENSION)	04-Jul-2002	Reminder	08-Nov-2002
FILE APP?(OPENED 6MO AGO)	24-Jul-2002	Reminder	05-Feb-2002
RESPONSE (3 MO EXTENSION)	28-Jul-2002	Due Date	28-Aug-2002
IDS(3 MONTH EXTENSION)	04-Aug-2002	Reminder	08-Nov-2002
RESPONSE (LAST DAY)	28-Aug-2002	Due Date	28-Aug-2002
FOREIGN FILING DUE IN 3 MO	04-Nov-2002	Reminder	14-Jun-2002
IDS(6 MONTH EXTENSION)	04-Nov-2002	Reminder	08-Nov-2002
FOREIGN FILING DUE IN 1 MO	04-Jan-2003	Reminder	14-Jun-2002
FILE APP?(OPENED 1YR AGO)	24-Jan-2003	Reminder	05-Feb-2002
FOREIGN FILING (LAST DAY)	04-Feb-2003	Due Date	14-Jun-2002
IDS(12 MONTH EXTENSION)	04-Feb-2003	Reminder	08-Nov-2002
FILE APP?(OPENED 2YR AGO)	24-Jan-2004	Reminder	05-Feb-2002
FILE APP?(OPENED 3YR AGO)	24-Jan-2005	Reminder	05-Feb-2002

User ID: ezc
Date Created: 25-Jan-2002
Last Update: 27-Sep-2002

9-3-49

PO93149

93149 Tierney Rides, LLC 27734

US UTIL Patent TJD

STREET SKIS
2155 Stonington Avenue
Hoffman Estates, Illinois 60195

USA PATENT FILE CLIENT NO. 27734 MATTER NO. 93149 (to be billed)

CLIENT Tierney Rides, LLC

TITLE US UTIL - Street Skis

INVENTOR(S) Tierney et al

APPLICATION RECORDS

Application Serial No. 10/068,196

Application Filing Date 2/4/02

Date Application sent to Client _____

Date Application sent to PTO 2/4/02

Disclosure Statement Due 3/4/02

Disclosure Statement Done _____

Patent No. _____

Patent Issue Date _____

Entity Status as filed _____

Entity Status as issued _____

Patent Expiration Date _____

Foreign Filing (circle one) Yes No, By _____

Foreign Filing Reminder Letter Sent _____

certified 2/8/02 - this appl. but NOT listed as [illegible]

PROSECUTION HISTORY

Type of Paper Received From PTO	Date Mailed by PTO	Type of Reply Due	Reply Due Date	Date Reply Forwarded to PTO
		IDS		11/8/02

Original Patent sent to Client _____ Certificate of Correction Requested _____ Reissue Callup Date _____

USA PRIORITY CLAIMED: YES ✓ NO ____

Priority Serial No. 60/266,725

Priority Filing Date 2/5/01

FOREIGN PRIORITY CLAIMED: YES ____ NO ____

Priority Serial No. _____

Priority Filing Date _____

431

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

THOMAS J. DONOVAN
BARNES & THORNBURG
2600 CHASE PLAZA
10 SOUTH LASALLE STREET
CHICAGO, IL 60603

COPY MAILED

FEB 26 2003

OFFICE OF PETITIONS

In re Application of	:	
Tyler Tierney et al	:	
Application No. 10/068,196	:	DECISION ON PETITION
Filed: February 4, 2002	:	UNDER 37 CFR 1.181
Attorney Docket No. 27734-93149	:	

This is a decision on the petition filed February 20, 2003, which is being treated as a petition under 37 CFR 1.181 to restart the period for reply to the "Decision Refusing Status under 1.47(a)" mailed November 4, 2002.

The petition is **granted**.

Petitioner asserts that the Office action of November 4, 2002 was never received. In support of this assertion, petitioner has supplied a copy of the docket records where the Office action would have been recorded had it been received. Petitioner further asserts that a search of the file jacket and docket records and of all the records for this application (which includes the docket records for both the Washington, D.C. and Chicago offices) indicates that the Office action of November 4, 2002 was never received.

The showing submitted is sufficient to establish nonreceipt of the November 4, 2002 Office action. Accordingly, Rule 47 applicant is given ***TWO MONTHS from the mailing date of this decision to reply***, correcting the deficiencies noted in the November 4, 2002 decision.[1] Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted therein, except that the reply may include an oath or declaration executed by the nonsigning inventor. **FAILURE TO RESPOND WILL RESULT IN**

[1] A copy of the November 4, 2002 decision was given to Richard B. Lazarus on February 20, 2003.

ABANDONMENT OF THE APPLICATION. Any extensions of time will be governed by 37 CFR 1.136(a).

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

By mail: U.S. Patent and Trademark Office
P.O. Box 2327
Mail Stop DAC
Arlington, VA 22202

OR

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BARNES & THORNBURG
2600 CHASE PLAZA
10 LASALLE STREET
CHICAGO IL 60603

Paper No. 6

COPY MAILED

NOV 0 4 2002

OFFICE OF PETITIONS

In re Application of:
Tyler Tierney, Kurt Tierney, Thomas A. Wozny, Nicholas Nanos, Luc Heiligenstein and Geoffry Boyer
Application No. 10/068,196
Filed: February 4, 2002
Title of Invention: STEERABLE IN-LINE STREET SKI

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the Petition under 37 CFR 1.47(a), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(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 February 4, 2002, without a fully executed oath or declaration. Accordingly, on February 28, 2002, a "Notice to File Missing Parts of Nonprovisional Application" (hereinafter "Notice") was mailed to Petitioner. The Notice required, in relevant part, a fully executed oath or declaration.

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

As to item (2), Petitioner has failed to provide an acceptable oath or declaration. Petitioner submits several declarations listing one inventor on each declaration with no indication as to the identity of the other inventors. The individual declarations also lack page numbers and provide no indication that other inventors exist other than the signature block; however, the signature block lists each inventor as the "First Joint Inventor".

The Manual for Patent Examining Procedure ("MPEP"), section 602, Sole or Joint Designation, provides:

> When joint inventors execute separate oaths or declarations, *each oath or declaration should make reference to the fact that affiant is a joint inventor together with each of the*

> *other inventors indicating them by name.* This may be done by stating that he or she does verily believe himself to be the original, first and joint inventor *together with "A" or "A & B, etc."* as the facts may be. (Emphasis supplied)

Further as to item (2), Petitioner has not provided an oath or declaration listing all inventors. The MPEP 409.03(a) further provides:

> All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.75 (see MPEP § 602, § 605.01, and § 1414) and (2) make oath or declaration on behalf of the nonsigning joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors *with the signature block of the nonsigning inventor(s) left blank* may be treated as having been signed by all the available inventors on behalf of the nonsigning inventor(s) unless otherwise indicated. (Emphasis supplied).

MPEP 409.03(a).

A Declaration identifying all inventors to all inventors, signed by the available inventors with the signature block of the non-signing inventor(s) left blank, is required.

Finally, as to item (2), the oath or declaration has been altered, however, the alterations have not been initialed and/or dated as is required by 37 CFR 1.52(c). Specifically, the declaration signed by inventor Tyler Tierney has been altered; however, the alteration has not been initialled by Tyler Tierney. A properly executed oath or declaration which complies with 37 CFR 1.67(a) is required. See, MPEP 605.04(a).

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

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHARLES F. MERONI, JR.
MERONI & MERONI, P.C.
P.O. BOX 309
BARRINGTON, IL 60011

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APR 17 2007

OFFICE OF PETITIONS

In re Application of :
Tyler Tierney, et al. :
Application No. 10/068,196 : ON PETITION
Filed: February 4, 2002 :
Attorney Docket No. 06037 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 18, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

The application appears to have become abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 26, 2004, which set a shortened statutory period for reply of three (3) months. Further inspection of this application shows that the applicant never responded to the restarted period for reply to the Rule 47 decision of February 26, 2003, which set a two-month period for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtainable. Accordingly this application became abandoned on April 27, 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(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).

The statement of unintentional delay signed by Charles F. Meroni, Jr. (reg. #20,109) has not been accepted. Charles F. Meroni, Jr. was not the attorney of record or the responsible party for the prosecution of the application at the time any response was due to avoid abandonment. Additionally, the record indicates that the law firm of Barnes & Thornburg, LLP was responsible for prosecution of the above-identified application when the reply necessary to avoid abandonment was due. Therefore, petitioner must provide a statement from the law firm of Barnes & Thornburg, LLP explaining why action was not timely taken to prevent the above-

identified application from becoming abandoned due to the lack of reply to the petition decision dated February 26, 2003 and the office action dated February 26, 2004.

Furthermore, there is evidence on the record to indicate that at least part of the delay was intentional. Petitioner clearly states that the reason for the delay in response to the office action "was the result of being faced with bankruptcy or continued patent prosecution, which bankruptcy was unlawfully forced upon petitioner. In an effort to remain credible in the financial community, Petitioner was essentially forced to discontinue prosecution of the subject patent application" (from p. 8 of the petition). It is noted that no documentary evidence of financial difficulties has been submitted. It is not apparent why any USPTO fees were necessary to reply to the non-final Office action of February 24, 2004 or the decision on petition dated February 26, 2003. Furthermore, it appears that the petitioner made the business decision to apply whatever funds were available on or about November 23, 2005 to the revival of application no. 10/039,570, as opposed to the revival of this application. This appears to be a conscious decision to continue the prosecution of the other application to the detriment of this case. Such reinforces the conclusion that the delay in this application is not unintentional as it results from a deliberate decision to defer the expense of revival for this application.

As such, it would appear that applicant made a conscious decision NOT to continue prosecution in view of financial difficulties which is therefore a deliberately chosen course of action on the part of an applicant and NOT considered "unintentional" within the meaning of 37 CFR 1.137(b).

While Petitioner credits financial problems as to the reason for delay, it should be noted that the application was abandoned for failure to respond to the non-final office action dated February 26, 2004. Therefore, no additional fees were required by the USPTO to file a response within the statutory time period set forth in the Office action to avoid abandonment. Petitioner states that the delay was caused by the fraudulent and frivolous activities of their employee Ms. Sandy Hogan along with the law firm of Barnes and Thornburg. It is unclear how the actions of Ms. Hogan who was fired in October 2001 had any direct affect on the application becoming abandoned in 2003. The filing date of the application was after termination of Ms. Hogan so it would appear that Ms. Hogan was not directly involved in the prosecution of this application.

It is also requested that the applicant provide copies of all correspondences and communications between Barnes & Thornburg and Meroni & Meroni as to the preparation of a reply to (1) the decision on petition dated February 26, 2003, and also as to the preparation of the Office action of February 26, 2004.

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

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

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

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

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: BARNES & THORNBURG
2600 CHASE PLAZA
10 SOUTH LASALLE STREET
CHICAGO, IL 60603

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

COPY MAILED

MAR 2 0 2007

OFFICE OF PETITIONS

In re Patent No. 7,101,550 :
Issued : September 5, 2006 : DECISION ON APPLICATION
Application No. 10/068,215 : FOR PATENT TERM ADJUSTMENT
Filed: February 6, 2002 :
Atty. Dkt. No.: GNN-004BDV :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed November 6, 2006. This matter is being treated under 37 CFR 1.705(d) as an application for patent term adjustment.

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,101,550 on September 5, 2006. The instant request for reconsideration was timely filed November 6, 2006 in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 287 days. Patentees argue that the adjustment was improperly reduced 27 days in connection with the amendment filed April 25, 2006 under 37 CFR 1.312. Patentees further argue that the adjustment of 107 days in connection with drawings submitted May 22, 2006 overlaps with the 27 day reduction associated with the amendment.

Patentees' arguments have been carefully considered, but are not persuasive.

The Notice of Allowance was mailed February 22, 2006. An amendment was filed April 25, 2006. Accordingly, the adjustment of 576 days for Office delays was properly reduced an additional 27 days under 37 CFR 1.704(c)(4). The reduction began April 25, 2006, the date the amendment was filed, and ended June 9, 2006, the mail date of the Office's response to the amendment. The calculation of reduction takes into account the overlap with the reduction in connection with the drawings. Thus, in view of the overlap, the calculation of reduction ended May 21, 2006, or, 27 days later.

Patentees argue that the amendment submitted April 25, 2006 was expressly requested by the examiner. However, a review of the interview summary mailed April 27, 2006 indicates that applicants informed the examiner that applicants would submit a supplemental amendment to correct informalities. Thus, the assertion that the amendment was expressly requested by the examiner is not supported by the record.

The adjustment of 576 days was further reduced an additional 107 days in connection with the drawings submitted May 22, 2006 in accordance with 37 CFR 1.704(c)(10). The reduction began May 22, 2006, the date the drawings were submitted, and ended September 5, 2006, the date the patent issued.

There is no overlap between the two reductions contested by patentees. The reduction in connection with the amendment began April 25, 2006 and ended May 21, 2006, or, 27 days later, and the reduction in connection with the drawings began May 22, 2006 and ended September 5, 2006, or 107 days later.

In view thereof, at the time of issuance, the patent was entitled to a patent term adjustment of 287 days, as indicated on the patent.

The required fee of $200.00 for an application for patent term adjustment has been charged to Deposit Account No. 06-1448, as authorized.

Any request for reconsideration of this decision must be submitted within TWO MONTHS of the mail date of this decision. Extensions of time under 37 CFR 1.136 are not available.

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

Kery Fries

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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SEP 26 2007

OFFICE OF PETITIONS

FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

In re Patent No. 7,101,550 :
Issued : September 5, 2006 : DECISION ON APPLICATION
Application No. 10/068,215 : FOR PATENT TERM ADJUSTMENT
Filed: February 6, 2002 :
Atty. Dkt. No.: GNN-004BDV :

This is a decision on the "REQUEST FOR RECONSIDERATION OF DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT," filed April 17, 2007. This matter is being treated as a request for reconsideration under 37 CFR 1.705(d).

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,101,550 on September 5, 2006. The instant request for reconsideration was timely filed November 6, 2006 in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 287 days. An application for patent term adjustment was filed November 6, 2006 and dismissed March 20, 2007, the adjustment of 287 days having been upheld.

Patentees argue that the reduction 107 days in connection with the drawings filed May 22, 2006 is in error and that the correct period of adjustment should be 87 days rather than 107 days. Patentees argue that the period of reduction under 37 CFR 1.704(c)(10) began May 22, 2006, the date that the drawings were submitted, and ended August 16, 2006, the date that the Issue Notification was mailed.

Patentees contend that August 16, 2006, the date issuance of the Issue Notification was mailed, was the "date of the Office action or notice in response to the amendment under § 1.312 or such other paper" was mailed in accordance with 37 CFR 1.704(c)(10)(i).

Patentees' arguments have been carefully considered, but are not persuasive.

As previously indicated, the reduction of 107 days commenced May 22, 2006, the date the drawings were submitted, and ended September 5, 2006, the date the patent issued.

The mailing of the Issue Notification was not mailed in response to the drawing submission. Instead, once an application is assigned a patent number and issue date about ~~four~~ twenty days before the application issues as a patent, an Issue Notification is mailed to inform the applicant of the patent number and issue date. *See*, MPEP 1309.

Accordingly, the mailing of the Issue Notification was not in response to the drawings submission, but merely to inform applicants of the patent number and issue date assigned to the application.

In view thereof, at the time of issuance, the patent was entitled to a patent term adjustment of 287 days, as indicated on the patent.

Any request for reconsideration of this decision must be submitted within TWO MONTHS of the mail date of this decision. Extensions of time under 37 CFR 1.136 are not available. Patentees are advised that no reconsideration will be forthcoming thereafter.

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

Kery A. Fries

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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P.O. BOX 2428
BELLAIRE, TX 77402-2428

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MAY 16 2005

OFFICE OF PETITIONS

In re Application of :
Guy L. Clifton :
Application No. 10/068,221 : ON PETITION
Filed: February 6, 2002 :
Attorney Docket No. 26060/06 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 21, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed December 24, 2003. Accordingly, this application became abandoned on March 25, 2004. A Notice of Abandonment was mailed on June 28, 2004.

The file is being forwarded to Technology Center 3700, for review of the amendment, filed December 21, 2004, *in due course*.

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

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

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)
6732965	2004-05-11	10068223	2002-02-07	BASCUE.3129-NY

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Arlen L. Olsen/	Date (YYYY-MM-DD)	2008-08-07
Name	Arlen L. Olsen	Registration Number	37543

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

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. 6732965
Issue Date: May 11,2004
Application No. 10068223
Filed: February 7,2002
Attorney Docket No. BASC-3129

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

This is a decision on the electronic petition, filed August 7,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 7,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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In re Application of :
Tina Meinertz Andersen *et al* :
Application No. 10/068,224 : DECISION ON PETITION
Filed: February 5, 2002 :
Attorney Docket No. 6248.200-US :

This is a decision on the petition filed on August 4, 2004 by which petitioners request that the period for filing a reply to the final action dated February 18, 2004 be reset, and that any extension fees paid in order to reply to that Office letter be refunded. The petition is being considered under 37 CFR 1.181, and no fee is required for the petition. A refund of the $130.00 fee tendered with the petition will be credited to deposit Account No. 14-1447.

The petition is dismissed.

As a basis for the requested relief, petitioners allege that counsel changed their address in 2002 and that the new correspondence address was referred to in a paper filed in November 2003 in response to an Office action. Petitioners also allege that a change of address in this application was submitted in September 2002. Petitioners support their allegation by furnishing:

A declaration by Ms. Tracy Bronner, docket coordinator;

A copy of a Request for Customer Number Data Change (form PTO/SB/124A) having a handwritten date of September 11, 2002 thereon;

A Notice of Customer Number Record Change dated September 12, 2002; and

Three pages of a "spreadsheet" that was submitted on November 12, 2003 by Ms. Bronner.

A review of the application record shows that as originally filed, this application contained a power of attorney in favor of Reza Green, Peter J. Weibel and Richard W. Bork, with instructions to address correspondence to Reza Green at :

Novo Nordisk of North America
405 Lexington Avenue
Suite 6400
New York, New York 10174-6400

There was no association of this application with a Customer Number at all in the application as filed, and it does not appear that the instant application was ever properly associated with a Customer Number. Declarant Bronner states a request for Customer Number Data Change on September 11, 2002. However, it appears that the only result of the submission of this form, executed by Reza Green, was to change the practitioners associated with Customer No. 23650. Petitioners should note that the Notice of Customer Number Record Change dated September 12, 2002 was in fact mailed to the Lexington Avenue address, and simply indicates the change in practitioners associated with the Customer Number. To the extent that petitioners rely upon the spreadsheet submitted by Declarant Bronner on November 12, 2003, it does not appear that Declarant Bronner was at that time a registered practitioner. Therefore, even assuming that a change of correspondence address change for a particular application could be effected in **this** application by changing the data associated with a Customer Number when that Customer Number had not previously been associated with **this** particular application, Declarant Bronner was not authorized to change the correspondence address. See 37 CFR 1.33.

The record shows that at no time prior to September 11, 2002 was the correspondence address of **this** application associated with a Customer Number. As discussed in MPEP § 409, there are several different Office forms that can be used to accomplish different things with respect to Customer Numbers, and several different Office forms that can be used to make various changes with respect to data previously associated with a Customer Number. The showing submitted by petitioners has established only that certain registered practitioners have been associated with a Customer Number as per the September 11, 2002 Request for Customer Number Data Change. However, petitioners have not established that any correspondence address for this application was ever associated with a list of applications or patents to be associated with a Customer Number (see item (E) on page 400-12 of the current edition of the Manual of Patent Examining Procedure). In fact, it appears that petitioners did not designate the correspondence address of **this** application by Customer Number until August 4, 2004.

In light of the above analysis, petitioners' failure to timely receive correspondence at the correspondence address of record does not warrant the relief requested, because petitioners did not file a proper change of correspondence address prior to the mailing of the paper in question. In that regard, petitioners should note the discussion in MPEP § 601.03 with respect to the need for associating applications with a Customer Number before a change of correspondence address may be filed as a "batch change" (such as by filing a "spreadsheet"), as well as with respect to the mere inclusion in a paper being filed for another purpose of a different correspondence address. The failure to properly file a change of correspondence address is the reason that petitioners did not seasonably receive the Office letter in question. The time for replying thereto will not be re-set, and the extension of time fee necessary to extend the period for filing a reply thereto will not be refunded.

Petitioners are entitled to file a renewed petition under 37 CFR 1.181, without fee, setting forth any additional evidence bearing on the matters discussed above. However, the renewed petition must be filed within two months of the date of this Decision, and the time for taking appropriate action in reply to the Office letter dated February 18, 2004 will not be stayed either by the filing of the instant petition or a renewed petitioned. See 37 CFR 1.181(f).

PETITION DISMISSED.

E. Rollins-Cross, Director
Technology Center 3700

Novo Nordisk, Inc.
Patent Department
100 College Road West
Princeton, NJ 08540

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PATENT DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON, NJ 08540

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OFFICE OF PETITIONS

In re Application of :
Tina M. Andersen, et al. :
Application No. 10/068,224 : ON PETITION
Filed: February 5, 2002 :
Attorney Docket No. 6248.200-US :

This is a decision on the petition, filed December 21, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to the final Office action mailed February 18, 2004. A Notice of Abandonment was mailed on December 23, 2004.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being referred to Technology Center AU 3728 for consideration of the amendment filed December 21, 2004.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Aude Prieur-Blanc
108 bis Avenue du Peuple Belge
Residence Le Square-B
et A-Apt 30
59800 LILLE
France **AIR MAIL**

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APR 0 9 2003

OFFICE OF PETITIONS

In re Application of :
Prieur-Blanc and Cano :
Application No. 10/068,232 : LETTER
Filed: February 6, 2002 :
Attorney Docket No. ESSR:062US :
For: METHOD FOR SURFACE :
POLISHING OF AN OPTICAL :
ARTICLE USING A SOLVENT OR A :
MIXTURE OF SOLVENTS :

Dear Ms. Prieur-Blanc:

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 Christina Tartera Donnell at (703) 306-5589. 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).

Christina Tartera Donnell
Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Mark B. Wilson, Fulbright & Jaworski, L.L.P.
600 Congress Avenue, Suite 2400
Austin, TX 78701

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Paper No. 8

Mark B. Wilson
Fulbright & Jaworski, L.L.P.
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Austin, TX 78701

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APR 0 9 2003

OFFICE OF PETITIONS

In re Application of
Prieur-Blanc and Cano
Application No. 10/068,232
Filed: February 6, 2002
Attorney Docket No. ESSR:062US
For: METHOD FOR SURFACE POLISHING OF AN OPTICAL ARTICLE USING A SOLVENT OR A MIXTURE OF SOLVENTS

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed October 8, 2002 (certificate of mailing October 3, 2002).

The petition is granted.

Petitioner has shown that Aude Prieur-Blanc, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the Declaration of Facts of Mark B. Wilson establishes that the inventor was presented with the application papers, including the specification, claims and drawings, but failed to respond to the request that she sign the declaration.

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

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

The application file is being forwarded to Technology Center 1700 for examination in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEATTLE WA 98104

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OFFICE OF PETITIONS

In re Patent No. 6,860,726	:	
Application No. 10/068,234	:	
Filed: February 5, 2002	:	ON PETITION
Issued: March 1, 2005	:	
Attorney Docket No. BOEI-1-1018	:	

This is a decision on the petition filed April 11, 2005, which is being treated as a request under 37 CFR 3.81[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request under 37 CFR 3.81 is **GRANTED**.

Telephone inquiries should be directed to Paralegal Liana Chase at (571) 272-3282. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Corrections Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
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Paper No. 10

M. ANGELA PARSONS
FISH & RICHARDSON
60 SOUTH SIXTH STREET, SUITE 3300
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of
Constance A. Bell et al
Application No. 10/068,238
Filed: February 5, 2002
Attorney Docket No. 07039-372001

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

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N. Paul Friederichs
Angenehm Law Firm, Ltd.
P.O. Box 48755
Coon Rapids MN 55448-0755

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OFFICE OF PETITIONS

In re Application of :
Spiess et al :
Application No. 10/068,243 : ON PETITION
Filed: February 6, 2002 :
Attorney Dck't. No. A 490-003-PAT: :

This is a decision on the petition filed January 12, 2004, under 37 CFR 1.183 seeking waiver of 37 CFR 1.193(b).

The petition under 37 CFR 1.183 is **dismissed**, *subject to renewal as indicated below.* Any renewed petition must be captioned "Renewed Petition under 37 CFR 1.183 for Waiver of 37 CFR 1.193" and 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).

Petitioner seeks waiver of the rules to permit entry of the concurrently filed: Reply Brief, which is currently untimely under the governing rule (37 CFR 1.193). Petitioner asserts that counsel was suffering from an acute attack of gout and unable to more timely prepare the reply brief or seek an extension of time prior to expiry of the period.

As there is no requirement for the timely submission of a Reply Brief, to avoid the abandonment of an application, the failure to timely submit such an amended reply brief has not resulted in the abandonment of this application. Accordingly, this application is not abandoned, and the provisions of 37 CFR 1.137(b) do not apply in this instance. Nevertheless, it is appropriate to apply the principles thereof to the situation at issue.

Petitioner may wish to consider renewing the petition under 37 CFR 1.183 (no additional fee) and requesting that the Director waive the timeliness requirement of 37 CFR 1.193 and accept the delayed Reply Brief as if timely filed on the grounds that the delay was unintentional.[1]

[1] It is brought to petitioner's attention that 37 CFR 1.183 sets forth that waiver of the rules is "subject to such other requirements as may be imposed."

A petition requesting acceptance of a delayed Reply Brief on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by (1) by the amended reply brief, unless previously filed, (2) the petition fee set forth in 37 CFR 1.17(m), and (3) a statement that the "delay was unintentional."

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

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: 2011 South Clark Place
Crystal Plaza Two, Lobby
Room 1B03
Arlington, VA 22202

By FAX: (703) 872-6906
ATTN: Office of Petitions

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

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

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N. Paul Friederichs
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OFFICE OF PETITIONS

In re Application of	:
Spiess	:
Application No. 10/068,243	: ON PETITION
Filed: February 6, 2002	:
Attorney Dck't. No. A 490-003-PAT:	:

This is a decision on the petition filed September 13, 2004, under 37 CFR 1.183 seeking waiver of the timing requirements of 37 CFR 1.193(b).

The petition under 37 CFR 1.183 is dismissed. Applicants are given a non-extendable period of 60 days to renew this petition. Extensions of time are not available under 37 CFR 1.136(a) or (b).

When counsel's deposit account was accessed, there were insufficient funds (only $547) to cover the fee for a petition under 37 CFR 1.137(b). That fee is, effective December 8, 2004, $750. Any renewed petition under 37 CFR 1.183 will not be granted unless and until the fee for petition under 37 CFR 1.137b is likewise received.

Telephone inquiries relative 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

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Coon Rapids MN 55448-0755

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SEP 2 3 2005

OFFICE OF PETITIONS

In re Application of :
Brian SPIESS :
Application No. 10/068,243 : ON PETITION
Filed: February 6, 2002 :
Attorney Docket No. A490-003 :

This is a decision on the renewed petition under 37 CFR 1.183, filed April 15, 2005, seeking waiver of the timing requirements under 37 CFR 1.193(b).

The petition is **GRANTED**.

The petition satisfies the conditions for acceptance of a delayed Reply Brief in that (1) the reply brief; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the Reply Brief filed June 10, 2004 is accepted as having been unintentionally delayed.

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

The application file is being referred to Technology Center AU 3726 for appropriate action on the reply brief.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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N. PAUL FRIEDERICHS
ANGENEHM LAW FIRM, LTD.
P.O. BOX 48755
COON RAPIDS MN 55448-0755

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DEC 20 2007

OFFICE OF PETITIONS

In re Application of :
Bryan Spiess :
Application No. 10/068,243 : DECISION GRANTING PETITION
Filed: February 6, 2002 : UNDER 37 CFR 1.137(b)
For: CONVEYOR ROLLER :

This is a decision on the petition under 37 CFR 1.137(b), filed September 18, 2007, to revive the above-identified application. This is also a decision on the petition to expedite filed December 17, 2007.

The petitions are **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply of September 18, 2007, is accepted as having been unintentionally delayed.

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

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

This matter is being referred to Technology Center AU 3726.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

MI K. KIM
12517 STONEY CREEK DR.
PEARLAND, TX 77584

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JOSEPH F. BREIMAYER
910 EVERGREEN ROAD,
LAKE OSWEGO, OR 97034

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,890,041 :
Issue Date: May 10, 2005 :
Application No. 10/068,270 :
Filed: February 6, 2002 :
Title of Invention: **ANTILOCK BRAKE SYSTEMS EMPLOYING A SLIDING MODE OBSERVER BASED ESTIMATION OF DIFFERENTIAL WHEEL TORQUE** :

This is a decision on the petition filed December 11, 2009 under 37 CFR 1.378(c)[1], to accept the delayed payment of the maintenance fee for the above-identified patent and to change the entity status.

The petition under 37 CFR 1.378 (c) is **GRANTED.**
The petition under 37 CFR 1.28 is **GRANTED**.

The patent issued on May 10, 2005. The first maintenance fee due could have been paid during the period from May 10, 2008 to November 10, 2008 or, with a surcharge during the period from November 11, 2008 to May 10, 2009. Accordingly, this patent expired on May 10, 2009 for failure to timely remit the first maintenance fee.

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision. Fees in the amount of $980.00 for the first maintenance fee and $1,640.00 for the surcharge have been charged to the credit card provided.

In response to the request under 37 CFR 1.27(g)(2) and notification of loss of entitlement to small entity status, status as a Small Entity has been removed.

Also, the address shown on the petition differs from the address of record. The mere

[1] 37 CFR 1.378(c) provides that a petition to accept an unintentionally delayed payment of a maintenance fee must be filed within twenty-four months of the six-month grace period provided in § 1.362(e) and must include:
(1) The required maintenance fee set forth in § 1.20(e) through (g);
(2) The surcharge set forth in § 1.20(l)(2); and
(3) A statement that the delay in payment of the maintenance fee was unintentional.

inclusion, in a paper filed in the application for another purpose, of an address differing from the previously provided correspondence address, without mentioning the fact that an address change was made, does not constitute a proper change of address notification." See MPEP sections 601.03 and 711.02(c). A courtesy copy of this decision is being mailed to the address found on the petition but in the future, dual correspondences will not be mailed.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Pet. Dec.

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Mailed: 11/23/04

spg
Paper Number

In re application of
Lin-Ren Shiue et al.
Serial No. 10/068,277
Filed: February 6, 2002
For: ELECTROLYTIC CELL FOR OZONE GENERATION

DECISION ON
PETITION

This is a response to the PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT UNDER 37 C.F.R.§ 1.181 filed June 22, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of June 15, 2004, for failure to timely file a proper reply to the Office letter mailed on October 28, 2003 be withdrawn. The requester asserts that a timely response was filed on January 28, 2004.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the USPTO application file reveals that applicant's response was properly filed on January 28, 2004 in view of the fact that the originally filed papers have been located in the USPTO application file. Accordingly, any holding of abandonment is hereby vacated, and the application has been returned to pending status.

The application shall be forwarded to Examiner for processing and consideration of the papers filed January 28, 2004.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

J C PATENTS, INC.
4 VENTURE, SUITE 250
IRVINE CA 92618

SPE Corsaro

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/27/06 Paper No.: _____

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/068,293 Patent No.: 6959179

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

☑ **Approved** — All changes apply.

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

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

Comments: _____

NICK CORSARO
PRIMARY EXAMINER
SPE

2617
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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MARSHALL, GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of
Drmanac
Application No. 10/068,301
Filed: February 5, 2002
Attorney Docket No. 27373/38132

Decision on Petition

This a decision on the petition under 37 CFR 1.137(b), filed September 13, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to properly reply to the final Office action mailed December 29, 2003. A two month extension of time was obtained. Accordingly, this application became abandoned on May 30, 2004.

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

The fees paid with the petition appear to indicate that the applicant is no longer entitled to small entity status. As a courtesy, Office records have been updated to indicate that applicant is now a large entity. However, petitioner should file a letter explicitly stating whether or not applicant wishes to continue to claim small entity status.

Technology Center Art Unit 1637 will be informed the application has been revived so that the Art Unit may enter and consider the RCE and take further appropriate action.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of
Trese et al.
Application No. 10/068,314
Filed: February 6, 2002
Title of Invention: Method For Vitreous Liquefaction

Decision on Petition

This is a decision on the petition under 37 CFR §1.137(b), filed October 19, 2006, to revive the above-identified application.

An Advisory Action mailed on August 8, 2006 informed petitioner the amendment submitted on May 25, 2006 failed to place the application in condition for allowance. Accordingly, this application became abandoned on June 2, 2006. This decision precedes the mailing of a Notice of Abandonment.

The requirements for the filing of a grantable petition under 37 CFR §1.137(b) have been met. This Petition is hereby **Granted**.

This application is being forwarded to Technology Center 3700 for review of the RCE.

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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Robert W. Griffin
Knowledge Computing Corporation
6601 E. Grant Road, Suite 201
Tucson, AZ 85715

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MAY 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Wojciech WYZGA et al. :
Application No. 10/068,318 : DECISION DISMISSING PETITION
Filed: February 5, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 56712.00002 :

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

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 13, 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, by operation of law, the above-identified application became abandoned on October 14, 2004.

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

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

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

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

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

The instant petition does not satisfy requirement (1) above. This application cannot be revived in the absence of the reply necessary to continue prosecution. See MPEP 711.03(c)II(A).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary. The USPTO will not undertake dual correspondence.

Furthermore, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Appl ication of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the three-month extension of time submitted with the petition on March 8, 2005, was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

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

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

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

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22313

Telephone inquiries concerning this decision should be directed to Betsy Deppe at (571) 272-6052 or in her absence, the undersigned at (571) 272-3217.

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

cc: Carl Oppedahl
P.O. Box 5068
Dillon, CO 80435

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OPPEDAHL AND LARSON LLP
P O BOX 5068
DILLON, CO 80435-5068

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OFFICE OF PETITIONS

In re Application of
Wojciech WYZGA et al.
Application No. 10/068,318
Filed: February 5, 2002
Attorney Docket No. 56712.00002

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

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 17, 2005, to revive the above-identified application for continuity with a continuing 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 13, 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, by operation of law, the above-identified application became abandoned on October 14, 2004.

Since this application is being revived for continuity purposes only with continuing application No. 11/036,778 filed January 14, 2005, and since continuity has been established by this decision reviving this application, this application is again abandoned in favor of the continuing application.

As noted previously, 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 Appl ication of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the three-month extension of time submitted with the petition on March 8, 2005, was subsequent to the maximum extendable period for reply in this application, petitioner may request a refund of this fee by writing to M/S 16, Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3217.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

KATHY MANKE
AVAGO TECHNOLOGIES LIMITED
4380 ZIEGLER ROAD
FORT COLLINS CO 80525

In re Application of :
Benny W.H. Lai :
Application No. 10/068,326 : ON PETITION
Filed: February 6, 2002 :
Attorney Docket No. 10004400-1 :

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 25, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2117 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).

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Paper No. 7

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

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OFFICE OF PETITIONS

In re Application of :
Michael S. Foster et al. :
Application No. 10/068,329 : DECISION GRANTING PETITION
Filed: October 26, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 030048043US :

This is a decision on the petition under 37 CFR 1.137(b), filed June 13, 2003, and supplemented on July 16, 2003, to revive the instant nonprovisional application.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on April 19, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

A petition under 37 CFR 1.137(b) to revive for failure to timely notify the Office of the filing of an application in a foreign country must be accompanied by:

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

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

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

unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

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

This application is being forwarded to Technology Center Art Unit 2153 for examination in due course.

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

Marianne E. Morgan for
Frances Hicks
Lead Petitions Examiner

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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OFFICE OF PETITIONS

In re Patent No. 6,881,857	:
Palladino et al.	: DECISION ON REQUEST
Issue Date: April 19, 2005	: FOR
Application No. 10/068,333	: RECONSIDERATION OF
Filed: February 4, 2002	: PATENT TERM ADJUSTMENT
Attorney Docket No. NEREUS.012C1	: and
	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION
	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d)," filed May 20, 2005. Patentees request that the patent term adjustment indicated in the patent be corrected from one hundred forty-three (143) days to two hundred thirteen (213) days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred twelve (212) days.

On April 19, 2005, the above-identified application matured into U.S. Patent No. 6,881,857. The instant request for reconsideration filed May 20, 2005, was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 143 days. The initial determination of PTA of 213 was reduced by 1 day for

applicant delay in submitting the issue fee and 69 days for applicant's submission of an "Amendment under 37 CFR 1.312." Patentees dispute the reduction associated with the 312 amendment.

Preliminarily, it is noted that the reduction of 1 day is correct. The Notice of Allowance was mailed on November 9, 2004; however, the issue fee payment was not received in the Office until February 10, 2005. Accordingly, pursuant to § 1.704(b), a period of reduction of 1 day for the delay to February 10, 2005 was entered.

Regarding the reduction of 69 days, patentees cite section 2732 of the MPEP, which further explains:

> The submission of the following papers after a 'Notice of Allowance' is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: ... (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the 'Notice of Allowance' or 'Notice of Allowability.'

Patentees contend that the paper submitted after notice of allowance was filed solely to correct the error in the examiner's amendment, which accompanied the Notice of Allowance. The examiner unilaterally changed the title of the application, but in doing so, made a typographical error.

Patentees' argument is well taken. A review of the record confirms that the paper was filed under the circumstances set forth by patentees. Thus, the reduction of 69 days was based on the filing of a request to correct an error in the Notice of Allowance. Thus, it is concluded that the reduction of 69 days is not warranted.

In view thereof, the patent term adjustment indicated in the patent should have been 212 days.

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-

identified patent is extended or adjusted by two hundred twelve (212) days.

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: DRAFT certificate of correction

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DARBY & DARBY
PROFESSIONAL CORPORATION
805 THIRD AVENUE
NEW YORK NY 10022-7513

In re Application of :
Hirohide Inayama et al :
Application No. 10/068,344 : ON PETITION
Filed: February 6, 2002 :
Attorney Docket No. 4970/0K255 :

This is a decision on the petition, filed November 15, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 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 (571) 272-3208.

The examiner of Technology Center AU 2834 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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JOHN DODDS
1707 N ST, NW
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of	:	
Iloba	:	
Application No. 10/068,350	:	ON PETITION
Filed: 6 February, 2002	:	
For: Audio Device Incorporated into Printed Matter	:	

This is a decision on the petition under 37 CFR 1.137(a),[1] to revive the above-identified application unavoidably abandoned, filed on 16 January, 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 1.137(a)".

This application became abandoned on 18 October, 2003, for failure to file a proper response to the final Office action mailed on 17 June, 2003, which set a three (3) month shortened statutory period for reply. Petitioner filed an amendment after

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[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:
(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 CFR 1.17(l);
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

final rejection 27 August, 2003. The amendment did not prima facie place the case in condition for allowance, and an Advisory Action was mailed on 25 September, 2003. Petitioner filed an amendment and a one (1) month time extension on 27 October, 2003. The amendment did not place the case in *prima facie* condition for allowance, however. An Advisory Action was mailed on 6 January, 2004. Notice of Abandonment was mailed on 13 January, 2004.

The petition is accompanied by a Notice of Appeal. It is noted that petitioners filed an Appeal Brief on 16 March, 2004.

Petitioner asserts unavoidable delay in that a Notice of Appeal could not be filed before the examiner issued the last Advisory Action.

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[2] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[3]

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[2] 35 U.S.C. § 133.

[3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314,

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[4] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[5]

Petitioner's argument has been considered, but is not persuasive. In this regard, petitioner should note that a proper response to a final rejection (such as the Office action of 17 June, 2003), must be in the form of an appeal or a continuation application. The filing of an amendment placing the application in condition for allowance is permitted under the rules, but entry of such an amendment is not a matter of right. 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. The rule clearly indicates that the mere filing of an amendment does not relieve petition of the duty of taking appropriate action to save the application from abandonment.

Therefore, whether petition received an Advisory Action or not, prior to the expiration of the six month statutory period, the only right petitioner was entitled to was that of appealing the final rejection, filing a continuing application, or requesting continued examination by filing a submission and the required fee. This application became abandoned for failure on the part of petitioner to file an appeal, a continuing application, or a request for continued examination accompanied by a submission.

As noted in MPEP 711.03(c):

> Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP, however, does not constitute

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

[4]See MPEP 711.03(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

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

> "unavoidable" delay.[6] For example, as 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when 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. Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP is not rendered "unavoidable" due to: (a) the applicant's reliance upon oral advice by PTO employees; or (b) the PTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[7]

Furthermore, petitioner is advised that failure to timely receive an Advisory Action is not a basis of unavoidable delay. 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal. A delay is not "unavoidable" when an applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action.[8]

In this case, counsel admittedly received the final Office action mailed on 17 June, 2003, but chose not to file a proper reply within the allotted time period. There is no showing that applicant was precluded, as alleged, from timely filing a Notice of Appeal. In summary, the period for filing a proper reply,

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[6] See Haines, 673 F. Supp. at 317, 5 USPQ2d at 1132; 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 (Comm'r Pat. 1891).

[7] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

[8] See MPEP 711.03(c)(III)(C)(2). See In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

such as a Notice of Appeal or continuing examination, was not tolled by the filing of an amendment after final rejection or the mailing of an Advisory Action

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)[9], 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).

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

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[9]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)).

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

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

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

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64
Privacy Act Form

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROGERT E. FISCHER
3050 E. HILLCREST DRIVE
WESTLAKE VILLAGE, CA 91362

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JUN 17 2009

OFFICE OF PETITIONS

In re Patent No. 6,746,124	:	
Issue Date: June 8, 2004	:	
Application No. 10/068,366	:	NOTICE
Filed: February 5, 2002	:	
Attorney Docket No.: 053768.0002	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

It is noted that the present communication is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Mr. Joseph E. Gortych appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. While a courtesy copy of this notice is being mailed to the address noted on this communication, any future correspondence regarding this patent will be directed solely to the address of record.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JOSEPH GORTYCH
OPTICUS IP LAW, PLLC
7791 ALISTER MACKENZIE DRIVE
SARASOTA, FL 34240

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Genencor International, Inc.
925 Page Mill Road
Palo Alto, CA 94304-1031

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JUL 0 3 2006
OFFICE OF PETITIONS

In re Application of :
Shaw :
Application No. 10/068,374 : DECISION ON PETITION
Filed: February 6, 2002 :
Attorney Docket No. GC652 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 3, 2006, to revive the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office apologizes for any inconvenience.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within two (2) months of the Notice of Appeal filed June 23, 2005. The Office mailed a Notice of Abandonment on January 11, 2006.

With the present petition, petitioner submitted a request for continued examination (RCE) under 37 CFR 1.114 accompanied by a submission and an authorization to charge the requisite fees. The Office notes that 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" be submitted. The statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

Accordingly, the petition is **granted.**

This matter is being referred to Technology Center Art Unit 1652.

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

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

VERIZON
PATENT MANAGEMENT GROUP
1515 N. COURTHOUSE ROAD
SUITE 500
ARLINGTON VA 22201-2909

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NOV 3 0 2006
OFFICE OF PETITIONS

In re Application of
Steven Donovan
Application No. 10/068,381
Filed: February 6, 2002
Attorney Docket Number: RIC-99-055-C1
Title of Invention: Internet Protocol; Telephoney Voice/Video Message Deposit and Retrieval

ON PETITION

This is a decision on the petition filed August 14, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed May 10, 2006. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on August 11, 2006. This decision precedes the mailing of a Notice of Abandonment.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

CALFEE HALTER & GRISWOLD
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

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MAR 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Joseph B. Richey II :
Application No. 10/068,391 :
Filed: February 6, 2002 :
Attorney Docket No. 12873/04187 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed February 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed March 4, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 5, 2002.

Petitioner asserts that the delay was caused by nonreceipt of the Notice of March 4, 2002. In support, petitioner has supplied a copy of the relevant docket report showing that under the Due date/Date Type there is no indication that a response was due.

The showing of record is adequate to establish unavoidable delay within the meaning of 35 U.S.C. § 151 and 37 CFR 1.137(a).

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 07

MAR 25 2003

Sean P. Daley
FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

In re Application of:	:	
Po, *et al.*	:	
Application No. 10/068,433	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: February 06, 2002	:	
For: RAMAN FIBER LASER	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed January 06, 2003.

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

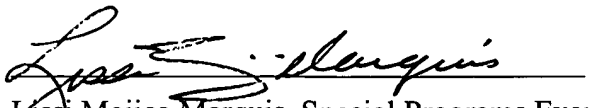
The request meets all the above requirements. The request was signed by Sean P. Daley, an attorney of record in the above identified application. On February 12, 2003, the Office mailed a non-final Office Action setting forth a three-month shortened statutory period for reply that is extendable by petition under 37 C.F.R. § 1.136(a) through August 12, 2003. As such, there is at least thirty (30) days remaining between the date of this decision and the expiration date of the maximum time period that can be extended under 37 C.F.R. § 1.136(a).

The request is approved.

The application currently has no attorney of record.

All future communications from the Office will be directed to Robert Hannemann, 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: Robert Hannemann
LaserSharp Corporation
86 South Street
Hopkinton, MA 01748

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

MATTHEW J SAMPSON
MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 S WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

COPY MAILED

JUN 17 2003

OFFICE OF PETITIONS

In re Application of
Brent Townshend
Application No. 10/068,457
Filed: February 6, 2002
Attorney Docket No. 01-1731

ON PETITION

This is a decision on the petition under 37 CFR 1.137(f)), filed May 16, 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 21, 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.

Applicant filed a "Rescission of Request to not Publish Application Pursuant to 35 U.S.C. 122(b) and 37 C.F.R. 1.213" on January 27, 2003 (Certificate of Mailing under 37 CFR 1.8 dated January 21, 2003, however, the rescission request was not eligible for the benefits of 37 CFR 1.8.[1]). The rescission request did not provide notice of the PCT filing. Accordingly, as the rescission was not made until after the filing of the PCT application, applicant was required by 35 U.S.C. 122(b)(2)(B)(iii) to provide notice of the PCT filing not later than forty-five days after the date the PCT application was filed to avoid abandonment of the application.[2]

---

[1] See "Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2)(B)(ii)-(iv)", available at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm.

[2] See id.

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

A petition under 37 CFR 1.137(f) must be accompanied by:

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

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

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

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

The previous Request and Certification under 35 USC 122(b)(2)(B)(I) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date accompanies this decision on petition.

The application is being forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Corrected Filing Receipt (2 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

Thomas A. Turano
TESTA, HURWITZ, & THIBEAULT, LLP
High Street Tower
125 High Street
Boston, MA 02110

MAILED

MAR 19 2004

Technology Center 2100

In re Application of:
Bloomfield
Application No. 10/068,461
Filed: February 06, 2002
For: INTERACTING WITH SOFTWARE APPLICATIONS DISPLAYED IN A WEB PAGE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 04, 2004.

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

The request filed March 04, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NASH & TITUS
6005 RIGGS ROAD
LAYTONSVILLE, MD 20882

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OCT 25 2005

OFFICE OF PETITIONS

In re Patent No. 6,814,192 :
Issue Date: November 9, 2004 :
Application No. 10/068,469 : NOTICE
Filed: February 6, 2002 :
Attorney Docket No. H&U109 :

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

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

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

Inquiries related to this communication should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Files Repository.

Wan Laymon
Petitions Examiner
Office of Petitions

15 JUL 2005

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O BOX 1450
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www.uspto.gov

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

In re Application of	:	DECISION ON
Malcolm Lovell HANDEL et al	:	
Application No.: 10/068,471	:	
Filing Date: 04 February 2002	:	PETITION
Attorney's Docket No.: 273402003300	:	
For: TREATMENT OF INFLAMMATORY	:	
AND MALIGNANT DISEASES	:	UNDER 37 CFR 1.182

This is response to applicants' "PETITION TO CONVERT A 35 USC 111 TO APPLICATION TO §371 APPLICATION" filed 18 April 2003 requesting to convert the above captioned- application to a national phase application filed under 35 U.S.C. 371. The appropriate petition fee of $130.00 has been paid by check.

BACKGROUND

On 04 August 2000, applicants filed international application PCT/AU00/00932, which claimed priority of an earlier application filed 04 August 1999. A copy of the intentional application was transmitted on 15 February 2001 to the USPTO from the International Bureau.

A Demand electing the United States was filed in this international application on 19 February 2001. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 04 February 2002.

On 04 February 2002, applicants filed a transmittal letter for the filing of a utility application, which was accompanied by, inter alia, a specification, and claims.

On 02 April 2002, the USPTO mailed applicants a "NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION FILED UNDER 37 CR 1.53(b)." The notice indicated, *inter alia*, that the the statutory basic filing fee is missing and that applicant must submit $740 to complete the basic filing fee for a non-small entity.

On 29 October 2002, applicants filed, inter alia, a "FEE TRANSMITTAL FOR FY 2002." Applicants included the utility filing fee of $720.00 to satisfy the notice and to comply with filing the application under 37 CFR1.53(b). Accordingly, the application was properly processed as a filing under 35 U.S.C. §111(a).

On 18 April 2003, petitioner filed the instant petition to convert the above application filed under 35 USC §111(a) to a national stage application filed under 35 USC §371. In addition, petitioner filed a Transmittal Letter under 37 U.S.C. 371.

DISCUSSION

Any intended filing under 35 U.S.C. 371 (a national stage application) must clearly and unambiguously be identified as such, otherwise the submission will be treated as being filed under 35 U.S.C. 111(a). Note 37 CFR 1.495(g) and MPEP 1893.03(a). Petitioner indicates on page 2, second paragraph shows intention to file under 35 U.S.C. 371 because it was stated that the "...application data sheet containing no continuity information, but designating as prior foreign applications...," however this is not persuasive for the below reasons.

Applicants' submission, including the Utility Patent Application Transmittal letter under 37 CFR 1.53(b) on 18 April 2003, did not request treatment under 35 U.S.C. 371. Moreover, applicants did not pay the full national basic fee, and applicants did not indicate that they wished to pay the basic national filing fee. Instead, applicants subsequently on 29 October 2002 paid the filing fee of $740.00 for a filing under 35 U.S.C. 111(a), therefore the application was properly treated under 35 U.S.C. 111 (a) (37 CFR 1.495(g)).

United States statutes and regulations do not make specific provisions for the requested action and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will **only** grant such petitions upon a showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available.

In the present petition applicants have not made a showing that any loss of grant rights would occur if the above-captioned application remains a filing under 35 U.S.C. 111(a). Accordingly, applicants have not established sufficient cause for conversion from a 35 U.S.C. 111(a) application to an application filed under 35 U.S.C. 371.

Applicants, however, are entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, because this application (Serial No. 10/068,471) and the international application (PCT/AU00/00932) designating the United States were copending on 21 July 2004. However, applicants must comply with the provisions of 37 CFR 1.78 to correct the claim priority to the international application

Applicants are reminded that in order to perfect the claim for priority under 35 U.S.C. 119, applicant must submit a certified copy of the priority document. The certified copy of priority document submitted to the International Bureau cannot be relied upon to perfect the claim for priority. See MPEP § 1896.

In the alternative, applicants could file a separate national stage application (accompanied by a petition for revival of the international application) and thereby initiate the desired national stage application.

CONCLUSION

For the reasons noted above the petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition is desired, applicant must file a request for reconsideration within a **TWO (2) MONTH** non-extendable time period from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Second Renewed Petition."

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

Rafael Bacares
Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW:98-02

Paper No. 4

PRICE, HENEVELD, COOPER, DEWITT, & LITTON
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

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JUN 0 6 2002

OFFICE OF PETITIONS

In re Application of	:	
Bechtel et al.	:	DECISION GRANTING
Application No. 10/068,540	:	PETITION
Filed: 6 February, 2002	:	
Attorney Docket No. GEN10 P-415	:	

This is a decision on the petition under 37 CFR 1.10(c), filed on 29 March, 2002, requesting that the above-identified application be accorded a filing date of 6 February, 2002, rather than the presently accorded filing date of 8 February, 2002.

Petitioners allege that the application was deposited in Express Mail service on 6 February, 2002. In support, on 29 March, 2002, petitioners supplied a copy of Express Mail Label No. EV037477632US (the same Express Mail number found on the itemized transmittal letter accompanying the original application papers located in the official file). The "Date-in" on the Express Mail Label is 2/6/02.

The Office considers the date the paper or fee is shown to have been deposited in "Express Mail" to be the "Date-in" on the Express Mail label.[1] That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the U.S. Postal Service on 6 February, 2002. It is also noted that the original application papers in the official file bear a USPTO stamp dated 2/6/02. It appears that the filing date was incorrectly entered as 8 February, 2002, in Office PALM records.

In view of the above, the petition is granted. No petition fee is required and none has been charged.

[1] MPEP 513.

The application is being returned to the Office of Initial Patent Examination (OIPE) for correction of the filing date to 6 February, 2002, and for issuance of a corrected Filing Receipt. Thereafter, the application will be forwarded to Technology Center 2800 for examination in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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JUL 16 2009

OFFICE OF PETITIONS

In re Application of
Bo T. CLARIDGE, et al.
Application No. 10/068,542
Filed: February 6, 2002
Attorney Docket No. **053328-124695**

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 April 2, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Patrick C. Woolley on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

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

cc: **GC INVENTIONS, LLC**
7 EAST BURNAM ROAD
COLUMBIA, MI 65203

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

APR 24 2003

PAPER NO. 3

In re Application of :
Adele Mercier :
Serial No:10/068,544 : PETITION UNDER
Filed: February 06, 2002 : M.P.E.P. 708.02, IV
For: PACKAGING FOR BACON AND ASSOCIATED :
PACKAGING METHOD :

This is in response to the petition filed January 28, 2003, requesting that the above-identified application be granted Special Status under Section 708.02, IV of the MPEP and 37 CFR 1.102(c).

The petition lacks evidence showing that the applicant is of 65 years of age or more, such as a birth certificate, copy of driver's license or applicant's verified statement under the title 18 U.S.C. 1001. Accordingly, the petition is denied.

The petition is **DENIED**

JMStone

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

Gold & Rizvi, P.A.
600 North Pine Island Rd.
Suite 450
Plantation, FL 33324

Cc Adele Mercier
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Dania, FL 34313

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KENNETH A. RODDY
SUITE 105
2916 WEST T.C. JESTER BOULEVARD
HOUSTON, TX 77018

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FEB 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Robert R. Gray :
Application No. 10/068,575 :
Filed: February 6, 2002 :
Attorney Docket No. N/A :

ON PETITION

This is a decision on the papers styled, "Request For Withdrawal of Holding of Abandonment (No Abandonment in Fact)," filed January 10, 2006, which has been treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed October 18, 2004. A "Notice of Fee Deficiency" (Notice) was mailed February 8, 2005 and set a one (1) month period for response. Accordingly, this application became abandoned on March 9, 2005. A Notice of Abandonment was mailed on January 4, 2006.

Petitioner asserts that a response in the form of a check for $100.00 for one additional independent claim was timely submitted on February 21, 2005 in response to the Notice. In support, petitioner has submitted a copy of the February 21, 2005 submission and a copy of the date-stamped postcard receipt that indicates receipt of the submission on February 28, 2005 by the USPTO. The "Transmittal of Fee for Added Claim" contains an executed Certificate of Mailing under 37 CFR 1.8 dated February 21, 2005.

Accordingly, the petition is granted and the holding of abandonment is withdrawn.

This application is being forwarded to Technology Center 3700, for review of the amendment, filed January 24, 2005 (Certificate of Mailing date: January 18, 2005), *in due course*.

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. None

Kenneth A. Roddy
Suite 105
2916 West T.C. Jester Boulevard
Houston TX 77018

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JAN 0 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Robert R. Gray	:	
Application No. 10/068,575	:	DECISION ON PETITION
Filed: February 6, 2002	:	UNDER 37 C.F.R. §1.181
Title: TRASH RECEPTACLE WITH SUCTION MEANS FOR DRAWING A FLEXIBLE BAG LINER AGAINST ITS INTERIOR WALLS	:	

This is a decision on the petition filed October 8, 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 the issue fee and drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed April 27, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting formal drawings or issue fees[1]. Accordingly, the above-identified application became abandoned on July 28, 2006. A Notice of Abandonment was mailed on August 30, 2006.

With the present petition, Petitioner's representative has asserted that the communication was not received. Petitioner's representative has met the requirements of Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that the Office communication was not received, that he has searched both the file jacket and the docket record, and he has included a copy of the latter. He has further explained that the lock on

1 See MPEP §710.02(e).

his mailbox had been broken for a period of time, during which the mailman was not leaving his mail.

However, it is noted that the Notice of Allowance and Issue Fee Due was mailed to the address of record, which is "Suite 105, 2916 West T.C. Jester Boulevard, Houston TX 77018." This is the same address which appears on the transmittal sheet and the declaration, both of which were presented on filing. The address that appears on this petition however, is "2916 West T.C. Jester Boulevard, Suite 100, Houston TX 77018."

It appears that at some point subsequent to the filing of this application, the address of Petitioner's representative changed, and Office records do not appear to indicate that a Change of Address has ever been filed with the Office.

Petitioner's representative has not provided any indication as to if/when he moved. Therefore, it appears that the Office action was properly mailed by this Office to the correspondence address of record, and Petitioner's representative did not receive the communication because he was no longer located at Suite 105. Petitioner has asserted that the mailing was returned to the Office because of a broken mailbox, however it is equally possible that the mailing was returned because Petitioner is no longer located at the correspondence address of record. It stands to reason that the new occupant of Suite 105, upon receiving a letter that was not addressed to him/her, would return the mailing to the United States Postal Service, with an indication that the mailing should be returned to the sender.

Petitioner must clarify, on the record, why his return address differs from the address of record. If Petitioner's correspondence address has changed, he must indicate when this occurred, and why a change of correspondence address was not submitted to the Office.

Pursuant to the discussion above, the petition 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. 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

Alternatively, Petitioner may also wish to consider filing a petition under 37 C.F.R. §1.137(a) and/or (b). No assurance can be made that any remedy will be forthcoming.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

As indicated above, it has been noted that the address listed on the petition differs from the address of record. If Petitioner desires to receive future correspondence pertaining to this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[5]. 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

cc: Kenneth A. Roddy
Suite 100
2916 West T.C. Jester Boulevard
Houston TX 77018

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 Petitioner's representative 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's representative is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner's representative.

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MAR 30 2007

OFFICE OF PETITIONS

Kenneth A. Roddy
Suite 100
2916 West T.C. Jester Boulevard
Houston TX 77018

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OFFICE OF PETITIONS

CANCELLED

In re Application of :
Robert R. Gray :
Application No. 10/068,575 : DECISION ON RENEWED PETITION
Filed: February 6, 2002 : UNDER 37 C.F.R. §1.181
Title: TRASH RECEPTACLE WITH :
SUCTION MEANS FOR DRAWING A :
FLEXIBLE BAG LINER AGAINST ITS :
INTERIOR WALLS :

This is a decision on the renewed petition filed March 8, 2007, 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 the issue fee and drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed April 27, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting formal drawings or issue fees[1]. Accordingly, the above-identified application became abandoned on July 28, 2006. A Notice of Abandonment was mailed on August 30, 2006.

The original petition was filed on October 8, 2006, and was dismissed via the mailing of a decision on January 8, 2007. The decision indicated that although Petitioner had met the requirements of Delgar v. Schuyler, it was noted that his address on the petition differed from the address of record. As

1 See MPEP §710.02(e).

such, it appeared that the Office action was properly mailed by this Office to the correspondence address of record, and Petitioner did not receive the communication because he was no longer located at the correspondence address of record.

With this renewed petition, Petitioner has indicated that that he "utilizes both mailing addresses, still receives mail addressed to either suite number, and has the key to the mailbox for both mailing addresses[2]."

The concurrently submitted change of address has been entered and made of record.

This renewed petition is **GRANTED**. The holding of abandonment is WITHDRAWN.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the Notice of Allowance and Issue Fee Due, originally mailed on April 27, 2006, and will set a new period for response.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[3]. 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

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2 Petition, page 2.
3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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Law Offices of Karl Hormann
86 Sparks Street
Cambridge MA 02138-2216

Paper No. 11

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OFFICE OF PETITIONS

In re Application of	:	
Conrads HANS *et al.*	:	
Application No. 10/068,577	:	ON PETITION
Filed: February 5, 2002	:	
Attorney docket No. **020507-US**	:	

This is a decision on the petition filed on January 5, 2006, requesting withdrawal of the Notice of Abandonment mailed on January 27, 2004.

The petition is **GRANTED.**

Petitioner requests the Notice of Abandonment mailed on January 27, 2004 for failure to respond to the Office action mailed on June 16, 2003 be withdrawn as petitioner timely filed a response. As evidenced by the attached amendment with a certificate of mailing date of September 14, 2004 a response was timely entrusted to the mails, but not received at the USPTO.

Telephone inquiries concerning this decision should be directed to Anatoly Vortman at (571) 272-6051, or in his absence to the undersigned at (571) 272-3217.

The application file is being forwarded to the Technology Center AU 2856 for an appropriate action on concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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JUL 06 2007

OFFICE OF PETITIONS

In re Application of :
Athanassios Diacakis, et. al. :
Application No. 10/068,590 : ON PETITION
Filed: February 5, 2002 :
Attorney Docket No. 010762 :

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

The application became abandoned for failure to timely respond to the Restriction Requirement mailed November 3, 2006. A Notice of Abandonment was mailed on May 21, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) an election; (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 Technology Center Art Unit 3621, 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

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THOMPSON HINE L.L.P.
P.O. BOX 8801
DAYTON OH 45401-8801

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JUN 29 2006

OFFICE OF PETITIONS

In re Patent No. 7,027,455 :
Issue Date: April 11, 2006 :
Application No. 10/068,593 : ON PETITION
Filed: February 5, 2002 :
Attorney Docket No. 534334-026 (ALSO P51471US) :

This is a decision on the request under 37 CFR 3.81(b), filed June 8, 2006, 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.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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ST. LOUIS, MO 63102

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JUN 2 8 2005

OFFICE OF PETITIONS

In re Application of
Evic V. Wade
Application No. 10/068,626
Filed: February 5, 2002
Attorney Docket No. 19932/3

ON PETITION

This is a decision on the petition, filed March 8, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed October 5, 2004. A Notice of Abandonment was mailed on February 18, 2005.

The petition is found to comply with the requirements of 37 CFR 1.137(b).

The application is being referred to the Office of Publications to oversee the review of the drawing filed March 8, 2005.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Status inquires related to processing at Publishing Division should be directed to (703) 305-8283.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

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SEP 2 3 2004

OFFICE OF PETITIONS

In re Application of :
John Douglas Shuker :
Application No. 10/068,641 : ON PETITION
Filed: February 6, 2002 :
Attorney Docket No. 43191/270021 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 7, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 8, 2004.

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

The application file is being forwarded to Technology Center AU 3676.

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

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Paper No. 9

Chuan Li
Apt 158
7908 Avenida Navidad Apt 158
San Diego CA 92122

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AUG 18 2003

OFFICE OF PETITIONS

In re Application of
Li.
Application No. 10/068,663
Filed: February 6, 2002
For: PROTEIN STANDARD FOR ESTIMATING SIZE AND MASS

: DECISION DISMISSING PETITION

This is a decision on the petition submitted by facsimile transmission on August 27, 2002, requesting under 37 CFR 1.183 suspension of the requirements of 37 CFR 1.59(a) such that originally filed paragraphs 3, 4, 5, and 6 in Example 2 be expunged from this file.

The petition is **dismissed, subject to favorable reconsideration as discussed in more detail below.** Any request for reconsideration must be filed within TWO MONTHS of this decision. See 37 CFR 1.181(f). Extensions of time under 37 CFR 1.136(a) or (b) are not available.

Petitioner seeks expungement of unintentionally submitted trade secret information appearing in paragraphs 3, 4, 5, and 6 appearing in Example 2 of the instant specification, and insertion of a new paragraph.

Unfortunately the petition cannot be granted as petitioner did not comply with 37 CFR 1.121 and 37 CFR 1.125 which pertain to the manner of deleting and adding information to the specification. Petitioner should further note that these rules were amended effective July 30, 2003. In essence, petitioner will be required, as a condition of a favorable decision on the petition, to present a substitute specification that does not contain paragraphs 3, 4, 5, and 6 in Example 2, and does contain the proposed new paragraph. In addition, petitioner must also supply a "marked-up" copy of the specification showing the additions and deletions. The marked up and originally filed specification will be removed from this file. For petitioner's convenience, a copy of the rule change appearing in the Federal Register is enclosed. If petitioner is unable to prepare an amended and "marked-up" copies of the specification, he may wish to obtain the services of a registered practitioner, as the USPTO cannot prepare the amendment on behalf of petitioner. The USPTO cannot aid petitioner in selecting a registered practitioner. A list of practitioners registered to practice before the USPTO is available on the USPTO web site: www.uspto.gov.

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

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

Telephone inquiries relevant to this decision only should be directed to the undersigned at (703) 305-1820.

Brian Hearn

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

Enclosure: 68 Federal Register 38611-38630 (June 30, 2003)

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Chuan Li
Apt. 158
7908 Avenida Navidad
San Diego CA 92122

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MAY 17 2005

OFFICE OF PETITIONS

In re Application of
Li
Application No. 10/068663 : ON PETITION
Filed: February 6, 2002
For: PROTEIN STANDARD FOR ESTIMATING SIZE AND MASS

This is a decision on the renewed petition filed September 15, 2003, which is being treated as a petition under 37 CFR 1.183 requesting suspension of the requirements of 37 CFR 1.59(a) such that part of the originally filed disclosure be expunged from this file. The delay in treating this petition is sincerely regretted.

The petition is **granted.**

The petition reasserts that the specification contains inadvertently disclosed trade secret and proprietary material. The undersigned has contacted the examiner in charge of this application and she concurs that requested removal of the material is acceptable. It is agreed that it would be in the interests of justice to close the entries in this file that contain the trade secret and proprietarymaterial, and also remove such from the listing of publicly available documents for this Image File Wrapper (IFW). In a paper file the page(s) or document would have been physically removed from the file wrapper; in the IFW realm the corresponding action(s) is to close the document and also remove such from the listing of "Public[ly available] Documents." Petitioner is advised that the Technology Center will now effectuate the closure of any documents containing the trade secret material, and replacement of that document(s) with the redacted disclosure(s).

This application is being brought to the attention of the Technoliogy Center for further processing.

Telephone inquiries relevant 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

AUG 13 2007

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

Chuan Li
7908 Avenida Navidad, #158
Sand Diego, CA 92122

In re Application of	:
LI, Chuan	:
Serial No.: 10/068,664	:Decision on Petition
Filed : February 6, 2002	:

This letter is in response to the letter filed on filed on June 19, 2007 requesting reconsideration of the restriction requirement. It is presumed that the Petition from requirement for restriction was made under 37 C.F.R. 1.144 and has been treated as such.

BACKGROUND

On November 4, 2003, the examiner mailed a restriction requirement in which the original claims 1-15 were divided into 5 groups.

On December 1, 2003, Applicants filed a listing of claims.

On December 19, 2003, a non-responsive amendment was mailed to applicant requesting election of a specific group.

On January 12, 2004, Applicants elected Group I (Claims 1-5) without traverse.

On March 22, 2004, the examiner mailed to applicant a non-final Office action, in which Group I (Claims 1-5) were searched and examined on the merits. The claims were rejected on 102(b), 112/1st Written Description and 112/2nd.

On June 21, 2004, applicants filed a response to the outstanding office action.

On October 19, 2004, the examiner considered applicant's response and mailed a FINAL rejection.

On January 18, 2005, Applicants requested continued examination and added new claims 16-20.

On February 1, 2005, the examiner mailed to applicant a non-compliant amendment for failing to list the withdrawn claims' text.

On February 10, 2005, Applicant filed a response to the non-compliant amendment letter listing the withdrawn claims.

On March 9, 2005, the examiner mailed to applicant a non-final Office action, in which Group I (Claims 16-20) were searched and examined on the merits.

On June 7, 2005, Applicants filed a response to the outstanding rejection.

On August 25, 2005, the examiner mailed to applicant a non-compliant amendment for failing to have proper status identifiers.

On September 14, 2005, Applicant filed a response to the non-compliant amendment letter listing the withdrawn claims.

On November 28, 2005, the examiner considered applicant's response and mailed a FINAL rejection.

On February 24, 2006, Applicants requested continued examination and added new claims 21-25 containing multiple DNA sequences defined by SEQ ID NO: 32-41.

On May 16, 2006, the examiner mailed a restriction requirement in which Claims 21-25 were divided into 10 groups corresponding to each of the identified SEQ ID Nos.

On June 15, 2006, Applicant responded to the restriction requirement by canceling Claims 21-25 and adding new claims 26-40 directed in part to SEQ ID NO: 37, 39, 41.

On September 19, 2006, the examiner mailed a non-responsive letter to applicant requesting election of a specific group. The examiner noted that following the amendments to the claims, groups VI, VIII and X were remaining.

On October 10, 2006, the Applicant elected group VI and VIII.

On December 28, 2006, the examiner mailed a letter indicating the election was non-responsive because Applicant elected both Group VI and VIII for prosecution.

On January 22, 2007, Applicants filed a provisional election of Group VI to be examined (Claims 26-30) with traverse and arguments.

On April 20, 2007, the examiner mailed an Ex Parte Quayle Action requesting applicant cancel the non-elected inventions.

On June 19, 2007, the Applicant filed a response and applicants filed this petition to request that the Office reconsider the restriction requirement.

DISCUSSION

The petition and extensive file history have been carefully considered.

An OG Notice published March 27, 2007 indicated that the standard of independence and distinctness would be applied to polynucleotide claims filed in an application under 35 USC 111(a).

Additionally, the March 27, 2007 OG Notice specifically spoke to the issue of burden of searching more than one independent and distinct invention.

The petition asserts that SEQ ID NO: 37, 39, 41 must be examined together because the plasmids are related. The plasmid are allegedly synthesized by the same design, are initially designed for the same purpose, made by the same method and can be sued together and are used together in a single product.

Consideration of Independent and Distinct Inventions

35 U.S.C. 121.sets forth the appropriate means for restriction which permits,

> "If two or more independent and distinct inventions are claimed in one application, the Director may require the application to be restricted to one of the inventions."

MPEP 802.01 helps define the terms independent and distinct.

> The term "independent" (i.e., unrelated) means that there is no disclosed relationship between the two or more inventions claimed, that is, they are unconnected in design, operation, and effect. Related inventions are distinct if the inventions as claimed are not connected in at least one of design, operation, or effect (e.g., can be made by, or used in, a materially different process) and wherein at least one invention is PATENTABLE (novel and nonobvious) OVER THE OTHER (though they may each be unpatentable over the prior art).

The MPEP also provides guidance in 806.01, stating

> "In passing upon questions of double patenting and restriction, it is the claimed subject matter that is considered and such claimed subject matter must be compared in order to determine the question of distinctness or independence."

Finally, "Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction there between 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" (see MPEP 806.06).

An alignment between SEQ ID NO: 37, 39, and 41 reveals only minimal homology over the full plasmid DNA. The sequences share approximately the first 750 nucleotides in common. However, the remaining nucleic acid sequence share no homology. Thus, a sequence of SEQ ID NO: 37 does not appear obvious over either SEQ ID NO: 39 or 41. This argument has been reviewed but is not persuasive. The sequences thus appear to be both independent and distinct.

The petition further asserts that the recently issued patents claimed multiple plasmids. This argument has been thoroughly reviewed but deemed not persuasive because each application for a patent is reviewed on its own merits for independence and distinctness. Moreover, restriction is discretionary especially in the cases where an examiner deems no burden exists. Here, the examiner has set forth both distinctness, independence and burden by indicating a separate search.

Finally the petition asserts that the plasmids claimed are small plasmids which are only 1906, 2315 and 1982 base pairs. The petition asserts that the burden of search is proportional to the plasmid size stating that the larger the plasmid, the more sequence would need to be searched. This argument has been reviewed but is not persuasive. A search for a longer sequence would more likely result in review of a fewer number of sequences. A shorter sequence fragment, such as 10-mers, would be expected to identify a larger number of sequences needing to be considered for novelty and obviousness. Thus, the size of the plasmids does not provide indicia of burden of search or independence and distinctness.

The MPEP sets forth a means for applicant to assert on the record that SEQ ID NO: 37, 39, 41 are obvious variants over one another and as such are not independent or distinct. Specifically, the MPEP provides that "Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention." The applicants do not appear to have availed themselves of this opportunity to place such evidence or statements on the record.

Thus, for the reasons provided above, the requirement to the elected invention, SEQ ID NO: 37 has been affirmed.

DECISION

The petition is **DENIED** for the reasons set forth above.

Any request for reconsideration must be filed within two (2) months of the mailing date of this decision.

Should there be any questions about this decision, please contact Special Program Examiner Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above,

or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Christopher Low
(Acting) Director, Technology Center 1600
jb/jg

APR 0 7 2008 AF

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P.O. Box 1450
Alexandria, VA 22313-1450
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Chuan Li
7908 Avenida Navidad, #158
Sand Diego, CA 92122

In re Application of :
LI, Chuan :
Serial No.: 10/068,664 :Decision on Petition
Filed : February 6, 2002 :

This letter is in response to the letter filed on filed on June 19, 2007 requesting reconsideration of the restriction requirement. It is presumed that the Petition from requirement for restriction was made under 37 C.F.R. 1.144 and has been treated as such.

BACKGROUND

A review of the file history may be found in the previous petition decision.

DISCUSSION

In this petition, applicants assert that the plasmids are related by design, function and the requirement for two particular linker sequences. The petition asserts that no other natural or man-made plasmids except those presented in this application contain exactly all these two linker sequences. The petition further asserts that these two linker sequences are an intrinsic connection of these plasmids.

These statements has been considered but found to be non-persuasive for the following reasons. First, the specification, sequence listing and claims, as filed, fail to disclose the two linkers specifically or the concept of using CG-rich linkers in general. Second, SEQ ID NO: 37 (1906 bp) and SEQ ID NO: 39 (2315 bp) are clearly different sequences, and absent a sequence alignment it is not clear how they are specifically related, or that the two particular linkers are actually required by all of claims 26-40. Moreover, the particular CG-rich sequences are not disclosed in the sequence listing as linkers. Thus, the arguments are not commensurate with the claims nor with the specification as filed.

Thus, for the reasons provided above, the requirement to the elected invention, the plasmid having SEQ ID NO: 37, has been affirmed.

DECISION

The petition is **DENIED** for the reasons set forth above.

Any request for reconsideration must be filed within two (2) months of the mailing date of this decision.

The application will be forwarded to the examiner for consideration of the papers filed 12 October 2007.

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

Christopher Low
(Acting) Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 010208

DATE : 12/31/07

TO SPE OF : ART UNIT 2877

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/068683** Patent No.: **6734961**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Gregory J. Toatley, Jr.
Supervisory Patent Examiner
SPE

2877
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date :April 2, 2010

Patent No. :7662548
Ser. No. :10068686
Inventor(s) :Patrick W. Gray et al.
Issued :February 16, 2010
Title :METHOD OF SCREENING FOR MODULATORS OF HIV INFECTION

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. 17(i) (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
Electronic Filing	uspto.gov/ebc/index.html (must be registered as an e-filer to submit responses) Support 1-866-217-9197 571-272-4100

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.

For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1544

Kathleen Williams
Edwards Angel Palmer & Dodge LLP
P.O. Box 55874
Boston, Massachusetts 02205

/arg

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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
MORRISTOWN, NJ 07962

COPY MAILED

JUL 29 2008

OFFICE OF PETITIONS

Patent No. 6,723,975 :
Application No. 10/068,740 :
Filed: February 5, 2002 : ON PETITION
Issued: April 20, 2004 :
Attorney Docket No. H0001788 :

This is a decision on the petition under 37 CFR 1.378(c), filed July 7, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued April 20, 2004. The last day of the grace period for paying the 3.5-year maintenance fee was April 20, 2008. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

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

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay in paying the maintenance fee was in fact unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay in paying the maintenance fee was intentional, petitioner must so notify the Office. Also, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. 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 should note that submission of a power of attorney and/or a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted to the Maintenance Fee Division.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul D. Amrozowicz
7010 E. Cochise Road
Scottsdale, AZ 85253

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 082504

SEP 15 2004

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

In re Application of:
BROWN *et al.*
Serial No.: 10/068,746
Filed: February 05, 2002
Attorney Docket No.: **2003722-0002**

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 June 01, 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 Sam Pasternack, on behalf of herself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

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

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

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

cc: B. A. PAINTER, III
P.O. BOX 477
5422 LEE HIGHWAY
TROUTVILLE, VA 24175

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

Robert E. Rosenthal, Esq.
Duane Morris LLP
4200 One Liberty Place
Philadelphia, PA 19103-7396

MAILED

MAY 27 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER

In re application of
Charles P. Giammattei
Application No. 10/068,764
Filed: February 5, 2002
For: MEDICAL DATA RECORDATION SYSTEM

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on March 18, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

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

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

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

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

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

The request to withdraw as attorney in the above-identified application is not approved as moot because the power of attorney has already been withdrawn as per the Notice to that effect of April 29, 2003.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121
(703) 605-0586 (facsimile)

RAR/tpl: 4/30/03

Cc: Pepper Hamilton LLP
50th Floor
One Mellon Center
Pittsburgh, PA 15219

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EPHRAIM STARR, GENERAL COUNSEL
HONEYWELL INTERNATIONAL INC.
GARERETT ENGINE BOOSTING SYSTEMS
23326 HAWTHORNE BOULEVARD, SUITE 200
TORRANCE, CA 90505

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JUN 20 2008

OFFICE OF PETITIONS

In re Application of :
David Wilson BEDDOME, et al :
Application No. 10/068,765 : DECISION ON PETITION
Filed: February 5, 2002 :
Attorney Docket No. 90099009 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 14, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 19, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 20, 2005.

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

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

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

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

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

As to Period (1):

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

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

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on January 20, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no

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

As to Period (2):

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

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 3 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as

opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at the law office and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

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

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

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

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.

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

Any renewed petition may be addressed as follows:

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

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

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

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

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

Telephone inquiries concerning this decision should be directed to the Diane Goodwyn at (571) 272-6735.

Thurman Page
Petitions Examiner
Office of Petitions

cc: BRIAN J. PANGRLE
421 WEST RIVERSIDE, SUITE 500
SPOKANE, WA 99201

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GILBRETH & ASSOCIATES
P.O. BOX 2428
BELLAIRE, TX 77402-2428

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MAR 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Christian Andre Cermelli et al :
Application No. 10/068,767 : ON PETITION
Filed: February 6, 2002 :
Attorney Docket No. 26780/15 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 19, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed 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.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center 3672.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

EXPANSE NETWORKS, INC.
6206 KELLERS CHURCH ROAD
PIPERSVILLE PA 18947

In re Application of:
Eldering et al.
Application No. 10/068,771
Filed: February 5, 2002
For: TARGETED ADVERTISING IN ON DEMAND PROGRAMMING

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed July 8, 2002 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. After mailing, the application will be forwarded to the examiner for immediate handling.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 16

Williams, Morgan & Amerson, P.C.
10333 Richmond Drive, Suite 1100
Houston, TX 77042

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SEP 26 2006

OFFICE OF PETITIONS

In re Application of :
Russell J. Apfel :
Application No. 10/068,780 : DECISION ON PETITION
Filed: February 6, 2002 :
Attorney Docket No. 2069.009200/TT3782 :

This is a decision on the petition under 37 CFR 1.181, filed July 19, 2006, to withdraw the holding of abandonment.

On June 13, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period to respond. In the apparent absence of a timely filed response, the application became abandoned on September 14, 2005.

In the present petition, petitioner's practitioner asserted that he filed a timely response to the nonfinal Office action via facsimile transmission on September 12, 2005. In support of his assertion, the practitioner submitted a copy of the response, containing a certificate of facsimile transmission signed by Nancy Nolan dated September 12, 2005, and a copy of the Auto-Reply Facsimile Transmission Confirmation from the USPTO. Additionally, Ms. Nolan stated in a previous correspondence to the USPTO that she transmitted the response by fax on September 12, 2005. However, the Office notes that petitioner indicated the incorrect Application, No. 10/068,730, instead of No. 10/068,780, in the heading of the present petition and the copy of the response.

Pursuant to 37 CFR 1.8:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and,

(3) Includes a statement, which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

After reviewing the record, the response submitted on September 12, 2005, has not been located. As previously stated, the present petition and the response indicated an incorrect application number in the heading. Nevertheless, under current Office procedure, if a paper having an incorrect application number contains sufficient information to identify the correct application and was timely received at the Office, the holding of abandonment will be withdrawn. In reviewing the papers, it is concluded that there was sufficient information thereon to associate the papers with the present application file.

For the reasons stated above, the response is considered timely filed on September 12, 2005. The petition to withdraw the holding of abandonment is **granted**.

This matter is being referred to Technology Center Art Unit 2643 for a review of the reply of September 12, 2005, re-submitted with the present petition.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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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INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET
SUITE 4000
MINNEAPOLIS, MN 55402

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MAY 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Lori GREINER :
Application No. 10/068,811 : DECISION GRANTING PETITION
Filed: February 6, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 13345.45US01 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 25, 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 20, 2004, which set a shortened statutory period for reply of three (3) months. A two-month extension of time under the provisions of 37 CFR 1.136(a) were obtained on December 27, 2004. Accordingly, by operation of law, the above-identified application became abandoned on December 21, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of July 20, 2004 is accepted as having been unintentionally delayed.

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 $510 for an extension of time submitted with the petition on February 25, 2005 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

The application file is being referred to Technology Center AU 3632.

Telephone inquiries concerning this decision should be directed to Betsy L. Deppe at (571) 272-6052 or in her absence, 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

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.
10/068,857	02/11/2002	Dominique Loubinoux	248556US55 CONT	8967

22850 7590 12/09/2008

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

EXAMINER	
AFTERGUT, JEFF H	

ART UNIT	PAPER NUMBER
1791	

NOTIFICATION DATE	DELIVERY MODE
12/09/2008	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

gm

12/9/08

In re application of	:	
Dominique Loubinoux	:	DECISION
Serial No. 10/068,857	:	DISMISSING
Filed: February 11, 2002	:	PETITION
For: METHOD AND APPARATUS FOR THE MANUFACTURE OF COMPOSITE SHEETS	:	

This is a decision on the PETITION UNDER 37 CFR 1.182 filed on November 3, 2008

A reply brief was filed on July 30, 2008, which was denied entry by the examiner in a communication dated October 10, 2008. The examiner denied entry of the reply brief as being improperly signed.

The instant petition was then timely filed on November 3, 2008, and is before the Director of Technology Center 1700 for consideration.

The petition requests that the reply brief filed July 30, 2008 be entered.

The petition is DISMISSED given the submission of a corrected reply brief, as explained below.

DECISION

Signature requirements are governed by 37 CFR 1.33(b) and 37 CFR 10.18:

> § 1.33 Correspondence respecting patent applications, reexamination proceedings, and other proceedings.
> (b) Amendments and other papers. 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.
>
> § 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
> (a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of § 1.4 (d), § 1.4 (e), or § 2.193(c)(1) of this chapter.

(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

As can be seen from the above, each document filed in the USPTO must be properly signed. In the instant case, the transmittal letter accompanying the reply brief was signed, but the reply brief itself was not. The two are separate documents, and the provisions of 37 CFR 1.33(b) and 37 CFR 10.18(a-d) apply separately to both. The requirement for the reply brief itself to be signed cannot be waived.

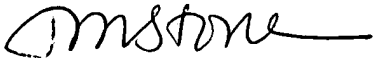
Consequently the reply brief was non-compliant under 37 CFR 1.33(b).

While procedures for dealing with an unsigned or improperly signed reply brief are not specifically spelled out in the MPEP, the MPEP does address the procedure for handling both unsigned or improperly signed amendments (714.01(a)) and unsigned appeal briefs (MPEP 1205.03). In both cases, applicant is to be notified that the paper is defective and given a one-month time period in which to ratify the document or submit a correctly signed version thereof.

Likewise in the instant case, applicant should have been notified of the missing signature and given an opportunity to correct this oversight, rather than simply being informed that the reply brief would not be entered, as was done. Reply briefs may at times be refused entry with no opportunity for correction if they are non-compliant under 37 CFR 41.41, but as noted above, applicants are generally to be given an opportunity to correct defects arising under 37 CFR 1.33(b).

Applicant included a signed version of the July 30, 2008 reply brief with the instant petition. The signed reply brief of November 3, 2008 is considered timely and will be entered into the file. The examiner is hereby instructed to consider the November 3, 2008 reply brief and take appropriate action in response thereto, per MPEP 1208(II). The examiner is further instructed to consider the reply brief to be timely filed.

Given that the signed version of the reply brief is entered, applicant's petition to enter the previous unsigned version is DISMISSED as moot.



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

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

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PATENT GROUP GA030-43
GEORGIA-PACIFIC LLC
133 PEACHTREE STREET, N.E.
ATLANTA GA 30303-1847

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FEB 27 2007

OFFICE OF PETITIONS

In re Application of :
Rebecca E. Whitmore, et al. :
Application No. 10/068,924 : ON PETITION
Filed: February 8, 2002 :
Attorney Docket No. 2390 (FJ-01-33) :

This is a decision in response to the petition, filed October 2, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to an Office action mailed March 8, 2006. A Notice of Abandonment was mailed on September 22, 2006. In response, on October 2, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply; (2) the petition fee of $1,500.00; and (3) the requisite statement of unintentional delay.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or within the response period set by statute. In no case, however, may an applicant respond later than the maximum time period set by statute. The extension of time submitted October 2, 2006 was filed when the provisions of 37 CFR 1.136 could no longer be used. Therefore, this application became abandoned when the unextended time for response had expired, i.e., June 9, 2006. Since no extension of time fees are due on a petition for revival, the extension fees submitted after abandonment are being credited to counsel's deposit account.

The application is being referred to Technology Center AU 1772 for consideration of the response filed October 2, 2006.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 12

GEORGE O. SAILE & ASSOCIATES
28 DAVIS AVENUE
POUGHKEEPSIE, NY 12603

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MAY 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Yee-Chia Yeo, et al. :
Application No. 10/068,928 : ON PETITION
Filed: February 7, 2002 :
Attorney Docket No. TS01-1379 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 19, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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

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

The application file is being forwarded to Technology Center AU 2814, for further processing of the request for continued examination under 37 CFR 1.114 filed April 19, 2004.

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

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

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OCT 14 2004

OFFICE OF PETITIONS

In re Application of :
Yee-Chia Yeo, et al. :
Application No. 10/068,928 :
Filed: February 7, 2002 :
Attorney Docket No. 2001-1379/24061.421 :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

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

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on January 16, 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 (571) 272-3204.

This application is being referred to Technology Center Art Unit 2814 for further prosecution.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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wak

Mailed:

8-9-07

In re application of :
Yuji Sawada et al. : DECISION ON
Serial No. 10/069,001 : PETITION
Filed: February 20, 2002 :
For: Laminate, Process For Producing It And Use Thereof :

This is a response to the PETITION UNDER RULE 181(a) REQUESTING RESET OF PERIOD FOR REPLY DUE TO LATE RECEIPT OF AN OFFICE ACTION, filed July 23, 2007. The petition requests that the time period for reply be reset to run from July 12, 20007, i.e. the date of the discovery of the Office Action.

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 Action of February 12, 2007. The evidence provided includes a statement by the petitioner that the Office Action mailed February 12, 2007 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 Action mailed February 12, 2007 was not received. Also provided is a copy of the attorney's application docket records where the Office Action mailed February 12, 2007 would have been posted had it been timely received.

Therefore, the time for response has been reset to run from July 12, 2007. The Office Action that was place in electronic file unrelated to the current application has been removed.

The Petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Marc S. Weiner
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

UNITED STATES PATENT AND TRADEMARK OFFICE

#16

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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THELEN REID & PRIEST, LLP
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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OFFICE OF PETITIONS

In re Application of	:	
Jean-Louis Gerstenmayer et al	:	
Application No. 10/069,045	:	ON PETITION
Filed: February 21, 2002	:	
Attorney Docket No. 034299-390	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the Non-final Rejection mailed September 17, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 18, 2003.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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

This matter is being referred to Technology Center AU 2878.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/14/2006

TO SPE OF : ART UNIT 1600 (1645)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,001,757

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 enter changes in the claims as req. in COCIN in Madras?**

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

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

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

Comments:

_____

_____

_____

_____

_____

Shanon A. Foley — 1645

SPE — **Art Unit**

SHANON FOLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6773599
Issue Date: August 10,2004
Application No. 10069099
Filed: May 13,2002
Attorney Docket No. GJE-82

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

This is a decision on the electronic petition, filed March 9,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 9,2009 . 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)
6773599	2004-08-10	10069099	2002-05-13	GJE-82

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	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2008-03-09
Name	Kendal M. Sheets	Registration Number	47077

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these 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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Thomas A. Miller
Miller, Matthias & Hull
Suite 2350
One North Franklin Street
Chicago, IL 60606

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MAY 23 2006
OFFICE OF PETITIONS

In re Application of Cragg et al. :
Application No. 10/069,107 : Decision on Petition
Filing Date: December 16, 2002 :
Attorney Docket No. 29985/05-112C :

This is a decision on the petition under 37 CFR 1.181, filed March 20, 2006, to withdraw the holding of abandonment. This is also a decision on the petitions filed in the alternative under 37 CFR 1.137(a) and 37 CFR 1.137(b).

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

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

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

Facts:

A request to withdraw as attorneys and agents of record was filed on May 8, 2005. Per the request, correspondence was no longer to be sent to the law firm of Burns Doane Swecker & Mathis LLP. The request stated all future correspondence should be sent to:

Thomas Miller, Esq.
Marshall, Gerstein & Borun
233 South Wacker Drive
6300 Sears Tower
Chicago, IL 60606-6402

On June 8, 2005, the Office notified the former representatives of record that the request for withdrawal had been accepted and entered.

A Final Office action was mailed June 20, 2005.

A revocation of prior powers of attorney and power of attorney was filed October 19, 2005. The paper included a request to change the correspondence address. The paper applied to a large number of applications. The record fails to indicate a separate copy of the paper was filed for the instant application.

MPEP 601.03 states,

> Unless the correspondence address is designated as the address associated with a Customer Number, a separate notification must be filed in each application for which a person is intended to receive communications from the Office.

The revocation and power of attorney was not matched with the instant file. As a result, the address of record remained unchanged.

A Request for Continued Examination, request for extension of time, and amendment were filed on October 31, 2005. The first paragraph in the Remarks section stated in part,

> The Power of Attorney and Revocation of Prior Power of Attorney is forthcoming. The undersigned hereby verifies that he is authorized by the assignee of the present application to file this paper.

A Notice of Non-Complaint Amendment was mailed to the address of record on November 3, 2005.

The record indicates the Notice was not received at the address of record until March 3, 2006.

The law firm at the address of record forwarded the Notice to the new law firm of Miller, Mathias and Hull. The new law firm received the Notice on March 6, 2006.

The instant petition was filed on March 20, 2006 (Certificate of Mailing Date of March 16, 2006).

Discussion:

In certain circumstances, an applicant may have the Office reset a period for reply due to late receipt of an Office action. The Office will grant a request to restart the time period to run from the actual date of receipt if the following requirements are met:

(1) the petition is filed within 2 weeks of the date of receipt,
(2) a substantial portion of the set reply period has elapsed, and
(3) the petition establishes the date of receipt of the Notice to the satisfaction of the Office.

Petitioner has met the requirements to have the period of time reset to begin running on March 3, 2006. A reply to the Notice of Non-Compliant Amendment was filed with the petition on March 20, 2006. Therefore, the reply is timely since it was filed within the new period of time to reply.

For the reasons above, the application is not abandoned.

Since the petition under 37 CFR 1.181 to withdraw the holding of abandonment has been granted, the petitions under 37 CFR 1.137(a) and 37 CFR 1.137(b) are dismissed as moot.

The Office charged petitioner's deposit account $500 for the petition under 37 CFR 1.137(a). The $500 fee will be credited back to petitioner's deposit account.

Technology Center Art Unit 3736 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will treat the amendment filed on March 20, 2006, as a timely reply to the Notice of Non-Compliant amendment mailed on November 3, 2005.

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

24 JUL 2002

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WASHINGTON, D.C. 20231
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Mel R. Quito
Armstrong, Westerman & Hattori, LLP
1725 K Street, N.W.
Suite 1000
Washington, D.C. 20006

In re Application of :
HATANAKA et al. :
Application No.: 10/069,112 : DECISION ON PETITION
PCT No.: PCT/JP00/05770 :
Int. Filing Date: 25 August 2000 :
Priority Date: 27 August 1999 :
Attorney Docket No.: 020231 :
For: DATA DISTRIBUTION SYSTEM AS WELL AS DATE SUPPLY DEVICE, TERMINAL DEVICE AND RECORDING DEVICE FOR THE SAME

This is a response to applicants' "Request to Correct International Filing Date on Notification of Missing Requirements" filed 19 June 2002.

On 25 August 2000, applicants filed international application PCT/JP00/05770 which claimed a priority date of 27 August 1999. A proper Demand was filed with the International Preliminary Examining Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America expired at midnight on 27 February 2002.

On 27 February 2002, applicant filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee of $890, a copy of the international application, a translation of the international application; and a preliminary amendment. The transmittal listed the international filing date as "August 20, 2000."

On 07 May 2002, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e).

On 19 June 2002, applicant filed "Response to Notification of Missing Requirements under 35 USC 371" which was accompanied by a declaration and a "request to correct the international filing date on the Notification of Missing Requirements under 35 U.S.C. 371 to read 8/25/00."

A review of the application file reveals that the correct international filing date is 25 August 2000, therefore, applicants' request is **GRANTED**.

The declaration filed on 19 June 2002 is in compliance with 37 CFR 1.497(a) and (b). The application has an international filing date of 25 August 2000 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **19 June 2002**.

This application is being forwarded to the United States/Elected Office to continue national stage processing of the application including: (1) changing the international filing date of the application in PALM to 25 August 2000; and (2) preparing and mailing a NOTIFICATION OF ACCEPTANCE (Form PCT/DO/EO/903).

Richard Cole
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Attorney-Advisor
PCT Legal Office
Tel.: (703)308-6314
Fax: (703)308-6359

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06 OCT 2006

DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON DC 20005

In re Application of:	:	
MIETTINEN, Erkki	:	DECISION
U.S. Application No.: 10/069,134	:	
PCT No.: PCT/FI00/00806	:	
International Filing Date: 21 September 2000	:	
Priority Date: 22 September 1999	:	
Atty Docket No.: 66411-065-2	:	
For: VOLTAGE BALANCING IN INTERMEDIATE CIRCUIT CAPACITORS	:	

This decision is issued in response to the "Letter" filed 31 July 2003, treated herein as a petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date for the present national stage application. No petition fee is required.

BACKGROUND

On 21 September 2000, applicants filed international application PCT/FI00/00806. The international application claimed a priority date of 22 September 1999 and it designated the United States. On 29 March 2001, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO).

A Demand for preliminary examination electing the United States was filed on 19 April 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the deadline for submitting the U.S. basic national fee was extended to 22 March 2002, i.e., thirty months from the priority date.

On 22 February 2002, applicants filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee.

On 07 May 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 was required.

On 31 May 2002, applicants filed a "Response To Notification Of Missing Requirements" stating that an executed declaration had previously been filed herein on 06 March 2002.

On 25 June 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying 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 U.S.C. 371 Requirements" as 06 May 2002. Also on 25 June 2002, a filing receipt was issued that identified the 35 U.S.C. 371(c) date as 06 May 2002.

On 31 July 2003, applicants filed the "Letter" treated herein as a petition under 37 CFR 1.181. The petition includes a copy of the previously filed declaration, as well as a copy of a return postcard itemizing the declaration and bearing a USPTO receipt stamp dated 06 March 2002.

DISCUSSION

Based on applicant's statements in the present petition and the return postcard that itemizes the declaration and bears a USPTO receipt stamp dated 06 March 2002, it is concluded that the executed declaration completing the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) was filed herein on 06 March 2002. The Notification Of Acceptance and filing receipt mailed 25 June 2002, both of which identified the 35 U.S.C. 371(c) date as 06 May 2002, are therefore appropriately vacated.

CONCLUSION

The petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date is **GRANTED**.

This application's date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 06 March 2002.

The Notification Of Acceptance and filing receipt mailed 03 October 2005, both of which identified the 35 U.S.C. 371(c) date as 06 May 2002, are hereby **VACATED**.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing, including the mailing of a corrected Notification Of Acceptance and filing receipt which correctly identify the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 06 March 2002.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of :
Miettinen : DECISION ON APPLICATION
Application No. 10/069,134 : FOR PATENT TERM ADJUSTMENT
Filed: March 6, 2002 :
Atty. Dkt. No: 66411-065 :

This is a decision on the "PETITION TO CORRECT PATENT TERM ADJUSTMENT" filed June 13, 2006. This matter is being properly treated under 37 CFR 1.705(b) as an application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN**.

The correct PTA at the time of the allowance is 812 days as further detailed herein.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed June 2, 2006, indicated that the PTA to date is 751 days. The instant application for patent term adjustment was timely filed June 13, 2006. Applicants request that the PTA be corrected from 751 days to reflect an adjustment of 869 days. Applicants argue that the adjustment was improperly reduced 56 days, and, further, argue that the correct application filing date is March 6, 2002, which would alter the calculation for the adjustment under 37 CFR 1.702(a)(1).

Applicants are correct in that the adjustment under 37 CFR 1.702(a)(1) was calculated based on an incorrect filing date. The filing date having been corrected to reflect a filing date of March 6, 2002, the application is entitled to an adjustment of 868 days under 37 CFR 1.702(a)(1). The adjustment began May 6, 2002, the day after the date that is 14 months from the date that the application fulfilled the requirements of 35 U.S.C. 371, and ended September 20, 2005, the date the non-final Office action was mailed. *See*, 37 CFR 1.703(a)(1).

The adjustment of 868 days is properly reduced 56 days in accordance with 37 CFR 1.704(c)(8) in connection with the supplemental reply (IDS) submitted January 31, 2006. Applicants argue that the IDS submitted January 31, 2006 was submitted within one day of receipt by applicant and five days from the mailing date by the European Patent Office.

Applicants are advised that 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. *See*, 37 CFR 1.704(d).

The IDS submitted January 31, 2006 lacks the required statement. Instead, the IDS submitted January 31, 2006 contains a statement that the "information contained therein was not cited in a communication from a foreign patent office in a counterpart foreign application or, to my knowledge after making reasonable inquiry, was known to any individual designated in 37 CFR 1.56(c) more than **three months** prior to the filing oft his Information Disclosure Statement."

In view of the lack of the required statement, the reduction of 56 days is deemed proper.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 812 days.

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

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The application is being forwarded to Office of Patent Publications for issuance of a patent.

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

Kery A. Fries

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

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JAMES C. LYDON
100 DAINGERFIELD ROAD
SUITE 100
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Patent No. 7,112,339 :
Issued: September 26, 2006 : DECISION ON APPLICATION FOR
Application No. 10/069,145 : PTA and NOTICE OF INTENT
Filed: February 22, 2002 : TO ISSUE CERTIFICATE OF
Atty. Dkt. No.: TUR-125 : CORRECTION

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d)," filed November 6, 2006.

The request for reconsideration of patent term adjustment is **GRANTED**.

The above-identified application matured into U.S. Patent No. 7,112,339 on September 26, 2006. The instant request for reconsideration was timely filed November 6, 2006 in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 16 days. Applicants argue that the correct adjustment is 124 days.

A review of the application history reveals that an overall adjustment of 185 days can be attributed to the Office[1]. The adjustment is reduced a total of 61 days for applicants' failure to engage in reasonable efforts to conclude prosecution[2].

In view thereof, the patent is entitled to an adjustment of 124 days as argued by patentees.

---

[1] An adjustment of 126 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1) in connection with the non-final Office action mailed August 26, 2003. A further adjustment of 59 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(4) and 1.703(a)(6) in connection with failure to issue the patent within four months of receipt of the issue fee payment.

[2] The adjustment is reduced 31 days in accordance with 37 CFR 1.704(b) in connection with the RCE filed June 4, 2004. The adjustment is further reduced 30 days in accordance with 37 CFR 1.704(b) in connection with the RCE filed July 7, 2005.

Receipt is hereby acknowledged of the required $200.00 patent term adjustment application fee.

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 124 days.

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

Kery A. Fries

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

CC: Draft Certificate of Correction

Day : Thursday

PALM INTRANET

Date: 5/3/2007
Time: 14:46:20

PTA Calculations for Application: 10/069145

Application Filing Date:	02/22/2002	PTO Delay (PTO):	126
Issue Date of Patent:	09/26/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	110
Post-Issue Petitions:	0	Total PTA (days):	124
PTO Delay Adjustment:	108		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
74	05/03/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	108		
70	09/26/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
69	07/13/2006	EXPORT TO FINAL DATA CAPTURE			
68	07/12/2006	DISPATCH TO FDC			
67	06/30/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
66	06/29/2006	PETITION TO REVIVE APPLICATION - GRANTED			
65	06/19/2006	PETITION ENTERED			
64	06/19/2006	ISSUE FEE PAYMENT VERIFIED		49	57
63	06/29/2006	WITHDRAW PUBLICATION/PRE-EXAM ABANDON			
62	06/19/2006	ISSUE FEE PAYMENT RECEIVED			
61	06/13/2006	MAIL ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
60	06/13/2006	ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
59	04/27/2006	FINISHED INITIAL DATA CAPTURE			
58	02/06/2006	EXPORT TO INITIAL DATA CAPTURE			
57	02/01/2006	MAIL NOTICE OF ALLOWANCE			
56	02/01/2006	MAIL EXAMINER'S AMENDMENT			
55	01/26/2006	ISSUE REVISION COMPLETED			
54	01/26/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
53	01/26/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
52	01/23/2006	EXAMINER'S AMENDMENT COMMUNICATION			

51	01/23/2006	NOTICE OF ALLOWABILITY			
50	11/18/2005	DATE FORWARDED TO EXAMINER			
49	11/02/2005	RESPONSE AFTER NON-FINAL ACTION			
48	09/19/2005	MAIL NON-FINAL REJECTION			
47	09/15/2005	NON-FINAL REJECTION			
46	07/15/2005	DATE FORWARDED TO EXAMINER			
45	07/07/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
44	07/15/2005	DATE FORWARDED TO EXAMINER			
43	07/07/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)		30	39
42	07/15/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
41	07/07/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
40	07/07/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
39	03/07/2005	MAIL FINAL REJECTION (PTOL - 326)			
38	03/04/2005	FINAL REJECTION			
37	12/13/2004	CORRESPONDENCE ADDRESS CHANGE			
36	11/27/2004	DATE FORWARDED TO EXAMINER			
35	11/17/2004	RESPONSE AFTER NON-FINAL ACTION			
34	08/26/2004	MAIL NON-FINAL REJECTION			
33	08/23/2004	NON-FINAL REJECTION			
32	07/13/2004	CASE DOCKETED TO EXAMINER IN GAU			
31	06/16/2004	DATE FORWARDED TO EXAMINER			
30	06/04/2004	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
29	06/16/2004	DATE FORWARDED TO EXAMINER			
28	06/04/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)		31	15
27	06/16/2004	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
26	06/04/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	06/04/2004	WORKFLOW INCOMING AMENDMENT IFW			
24	06/04/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
23	06/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
22	05/19/2004	MAIL ADVISORY ACTION (PTOL - 303)			
21	05/17/2004	ADVISORY ACTION (PTOL-303)			

20	05/10/2004	DATE FORWARDED TO EXAMINER			
19	05/04/2004	AMENDMENT AFTER FINAL REJECTION			
18	02/22/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
17	02/22/2002	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
16	05/04/2004	WORKFLOW INCOMING AMENDMENT IFW			
15	02/04/2004	MAIL FINAL REJECTION (PTOL - 326)			
14	02/03/2004	FINAL REJECTION			
13	12/22/2003	IFW AMENDED CASE PROCESSING COMPLETE			
12	12/22/2003	DATE FORWARDED TO EXAMINER			
11	11/26/2003	RESPONSE AFTER NON-FINAL ACTION			
10	08/26/2003	MAIL NON-FINAL REJECTION	126		-1
9	08/25/2003	NON-FINAL REJECTION			
8	08/17/2003	CASE DOCKETED TO EXAMINER IN GAU			
7	05/08/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	07/30/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	02/22/2002	PRELIMINARY AMENDMENT			
4	07/24/2002	APPLICATION DISPATCHED FROM OIPE			
3	07/22/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	07/10/2002	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	02/22/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,112,339 B1
DATED	:	September 26, 2006
INVENTOR(S)	:	Ahola, 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 16 days

Delete the phrase "by 16 days" and insert – by 124 days--

24 JUL 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Burton A. Amernick
CONNOLLY BOVE LODGE& HUTZ LLP
1990 M Street, N.W.
Washington, D.C. 20036-3425

In re Application of	:	DECISION ON
Douglas Rawson-Harris	:	
Application No.: 10/069,146	:	
PCT No.: PCT/AU00/00834	:	PETITION
Int. Filing Date: 12 July 2000	:	
Priority Date: 12 July 1999	:	
Attorney's Docket No.: 22078/0001	:	UNDER 37 CFR 1.137 (b)
For: SECURITY SCREW	:	

This decision is in response to applicants' "PETITION UNDER 37 CFR 1.137(b)" filed 22 February 2002.

BACKGROUND

On 12 July 2000, the applicant filed International Application No. PCT/AU00/00834, which claimed a priority date of 12 July 1999, and which designated the United States.

A Demand was filed with the International Preliminary Examining Authority electing the United States prior to the expiration of the 19 months from the priority date, and as a result the deadline for submission of a copy of the International Application (unless previously communicated by the International Bureau or filed in the United States Receiving Office) and payment of the basic national fee was extended to expire 30 months from the priority date, i.e. 12 January 2002..

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that the application be revived on the grounds of unintentional delay must be filed promptly after applicant becomes aware of the abandonment and must be accompanied by: (1) the required reply, unless previously filed, (2) the petition fee required by law, (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional and (4) a terminal disclaimer (for applications filed before 8 June 1995).

As to item (1), the petition is accompanied by the required reply.

As to item (2), the petition is accompanied by the required petiton fee.

As to item (3), the petiton is accompanied by applicants' 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."

As to item (4), a terminal disclaimer is not required in the present case.

CONCLUSION

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

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the present application.

Leonard E Smith
for Richard Cole
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 305-6639
Facsimile: (703) 308-6459

Tracy Legree
Tracy Legree
PCT Special Programs Detailee
PCT Special Programs Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

YING TUO
10 SHANIKO CMN
P.O. BOX 14158
FREMONT, CA 94539

COPY MAILED

JAN 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Chun-Yang Lee :
Application No. 10/069,150 : ON PETITION
Filed: February 21, 2002 :
Attorney Docket No. BPA-3 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 5, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 6, 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 3722 for further processing.

Irvin Dingle
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)
6,742,764	2004-06-01	10/069,152	2002-02-21	03367/0210922-US0

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	/Jay P. Lessler/	Date (YYYY-MM-DD)	2008-11-21
Name	Jay P. Lessler	Registration Number	41151

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. 6742764
Issue Date: June 1,2004
Application No. 10069152
Filed: February 21,2002
Attorney Docket No. AP9704

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

This is a decision on the electronic petition, filed November 21,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 21,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

23 JUL 2002
UNITED STATES PATENT AND TRADEMARK OFFICE

#3

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

Eugene C. Rzucidlo
Greenberg & Traurig, LLP
Third Avenue, 22nd Floor
New York, New York 10022-4834

In re Application of	:	
YUKI et al.	:	
Application No.: 10/069,192	:	
PCT No.: PCT/JP00/02616	:	
Int. Filing Date: 21 April 2000	:	DECISION
Priority Date: 23 April 1999	:	
Attorney Docket No.: 44342.013500	:	
For: METHOD FOR PULVERIZING TO FINE POWDER	:	

This decision is in response to applicants' "Petition" filed 12 April 2002, which is being treated as a request for corrected filing receipt and request for refund.

BACKGROUND

On 21 April 2000, applicant filed international application PCT/JP00/02616, which claimed a priority date of 23 April 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 02 November 2000. 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 23 October 2001.

On 23 October 2001, applicant filed a TRANSMITTAL LETTER (FORM PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee; copy of the international application; an executed declaration; and a preliminary amendment. These application papers were assigned application number 10/069,192.

On 10 January 2002, applicant filed "LETTER AND REQUEST" requesting that the copy of the application papers accompanying the communication and purportedly filed by Express Mail on 10 January 2002 be accepted as having been received on 23 October 2001 and processed. This submission was treated as a new application and assigned application number 10/031,102.

On 28 March 2002, a Notification of Acceptance was issued identifying the 35 U.S.C. 371(c) date as 10 January 2002. Subsequently, an Official Filing Receipt was issued

indicating a "FILING DATE" of 10 January 2002. The serial number listed on the Notification of Acceptance and Official Filing Receipt as 10/031,102.

DISCUSSION

Upon review of both application files, it is concluded that the papers filed 10 January 2002 were erroneously processed as a purported new application and assigned application No. 10/031,102. Accordingly, the papers filed on 01 March 2002 have been placed in application number 10/069,192. Purported application 10/031,102 is no longer an active application number and should not be used in any future correspondence regarding this application. Applicants' Deposit Account No. 50-1561 will be refunded the following fees: $890.00 (fee code 970) and $40.00 (fee code 581).

A review of the application file reveals that the basic national fee and declaration were filed with the USPTO on 23 October 2001, the date which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed. Therefore, the "FILING DATE" on the Filing Receipt and the Notification of Acceptance will indicate a date of 23 October 2001 since applicant completed the requirements set forth in 35 U.S.C. 371(c) on 23 October 2001.

Applicant should use application number **10/069,192** in all future communications with the Patent and Trademark Office in regards to the U.S. national stage of international application PCT/JP00/02616.

CONCLUSION

Applicant's request for the issuance of a corrected filing receipt indicating a "Filing Date" of 23 October 2001 is **GRANTED**.

Applicants' request for refund is **GRANTED**.

The papers filed on 10 January 2002 have been placed in application number 10/069,192.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) and Official Filing Receipt for application no. 10/031,102 is hereby **VACATED**.

The application has an international filing date of 21 April 2000 under 35 U.S.C. 363 and a date of **23 October 2001** under 35 U.S.C. 371.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision, that is, for mailing of a

NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) which identifies a date of **23 October 2001** under 35 U.S.C. 371.

This application will then be returned to Art Unit 1614 for further prosecution.

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

for

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No. 20050426

DATE : 4-14-05

TO SPE OF : ART UNIT 2832

SUBJECT : Request for Certificate of Correction on Patent No.: 6,765,159

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

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

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

Magdalene Talley

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

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

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

Comments:

4/27/05
SPE-AU 2832

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,765,159 B1

DATED : July 20, 2004

INVENTOR(S) : Uebelein, 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 Title Page	
(79) Assignee	Delete "Brose Fahrzeugteile GmbH &Co., Coburg (DE)", Insert "Brose Fahrzeugteile GmbH & Co., KG, Coburg, Coburg (DE)--
(57) Abstract, line 2	Delete "room of a motor vehicle", Insert --compartment of a motor vehicle--
(57) Abstract, line 3	Delete "operater", Insert --operator--
In the Claims	
Column 6, line 48, Claim 1	Delete "room", Insert --compartment--
Column 8, line 43, Claim 27	Delete "room", Insert --compartment--

Correction
Appl
GAU 2832

MAILING ADDRESS OF SENDER:

PATENT NO. 6,765,159

CHRISTIE, PARKER & HALE, LLP.
P.O. Box 7068
Pasadena, CA 91107

No. of additional copies

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

FEB 17 2005

OIPE
FEB 11 2005
PATENT & TRADEMARK OFFICE

PATENT
47861/DBP/M521

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. Patent No.	: 6,765,159 B1	**Confirmation No.** 1602
Issued	: July 20, 2004	
Inventor(s)	: Joerg Uebelein, et al.	
Application No.	: 10/069,201	
Filed	: February 22, 2002	
Title	: SWITCH TO BE MOUNTED ON A DESIGN ELEMENT IN THE PASSENGER COMPARTMENT OF A MOTOR VEHICLE	

REQUEST FOR CERTIFICATE OF CORRECTION

Office of Certificates of Correction
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

P. O. Box 7068
Pasadena, CA 91109-7068
February 7, 2005

Commissioner:

Submitted herewith are two copies of a proposed Certificate of Correction for the above-referenced patent. The errors are identified in detail in the proposed certificate, and the corresponding text in the application is located as follows:

Location in Patent	Location in Application
PTO errors:	
On the Title Page	
(79) Assignee	Assignment as recorded 06/18/02
Applicant errors:	
On the Title Page	
(57) Abstract, line 2	Substitute Specification filed 10/03/02, pg. 13, line 4
(57) Abstract, line 3	Substitute Specification filed 10/03/02, pg. 13, line 6
In the Claims	
Column 6, line 48, Claim 1	Amendment filed 12/05/03, pg. 2, Claim 1
Column 8, line 43, Claim 27	Amendment filed 12/05/03, pg. 8, Claim 27

Certificate
FEB 16 2005
of Correction

02/14/2005 HALI11 00000110 6765159
01 FC:1811 100.00 OP

FEB 17 2005

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:
2-7-05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/19/06

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction on Patent No.: 7,067,513 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.

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-

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 request is to insert subject matter which was inadvertently deleted in a previous amendment made to ~~cure~~ remove some redundancy in the dependent claim. EB 1/25/07

James O. Wilson — 1624

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
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BERLEX BIOSCIENCES
PATENT DEPARTMENT
2600 HILLTOP DRIVE
P.O. BOX 4099
RICHMOND, CA 94804-0099

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OFFICE OF PETITIONS

In re Application of :
Peter Holscher, et. al. :
Application No. 10/069,284 : ON PETITION
Filed: September 6, 2002 :
Attorney Docket No. SCH 1863 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on November 3, 2005, to revive the above-identified application.

This application became abandoned for failure to timely reply to the final Office action mailed July 19, 2004. A Notice of Abandonment was mailed on February 25, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, along with the $790 filing fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of an amendment and $1,020 for a three (3) month extension of time. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1,020 extension of time fee was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 1624.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

26 NOV 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

#8

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WASHINGTON, D.C. 20231
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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 Clarendon Blvd., Suite 1400
Arlington, VA 22201

In re Application of :
SUCK, Roland *et al* :
Application No.: 10/069,285 :
PCT No.: PCT/EP00/08059 : **DECISION**
Int. Filing Date: 18 August 2000 : **UNDER**
Priority Date: 24 August 1999 : **37 CFR 1.182**
Attorney Docket No.: MERCK 2386 :
For: METHOD FOR ISOLATING AND :
PURIFYING GRASS POLLEN :
ALLERGENS :

This decision is in response to applicants' "Reply to Notification of Defective Response and Request for Correction of Inventorship Under 37 C.F.R. § 1.48(a)" filed on 08 August 2002.

BACKGROUND

On 22 April 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee pursuant to 37 CFR 1.492(e) was required. Applicants were given two months to respond.

On 21 June 2002, applicants filed a response which included a declaration and the surcharge fee. However, the declaration listed four inventors while the international publication ("WO 01/13946") lists only three inventors. Sabine Schoen was added as a joint inventor but she did not sign the declaration.

On 09 July 2002, the DO/EO/US mailed a Notification of a Defective Response (Form PCT/DO/EO/916) indicating that the declaration submitted on 21 June 2002 does not comply with 37 CFR 1.497(a) and (b) as it was not executed in accordance with 37 CFR 1.66 or 37 CFR 1.68 and the fourth named inventor Sabine Schoen, was not listed on the international application.

On 08 August 2002, applicants submitted the instant response which was accompanied by, *inter alia*, a $130.00 fee, an executed declaration, a document titled "Statement by Sabine Schoen for Correction of Inventorship under 37 C.F.R. § 1.48(a)" and a document titled "Statement by Assignee for Correction of Inventorship under 37 C.F.R. § 1.48(a)"

DISCUSSION

Applicants submitted a petition under 37 CFR 1.48(a) to remove Sabine Schoen as an inventor of the above-captioned application. A petition under 37 CFR 1.48(a) is not appropriate here. Rather, a petition pursuant to 37 CFR 1.182 to correct the submission of an improper inventive entity listed on the declaration is required. Therefore, the papers have been treated as a petition pursuant to 37 CFR 1.182.

Applicants provided a newly executed declaration naming the appropriate inventive entity with the instant petition. This declaration complies with the requirements of 37 CFR 1.497(a) and (b). A petition fee of $130.00 has also been provided.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 18 August 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **08 August 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

Mail Date: 04/21/2010

Applicant	: Gene H MacDonald	: DECISION ON REQUEST FOR
Patent Number	: 7651998	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/069,305	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/06/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1089** 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. 6705684
Issue Date: March 16,2004
Application No. 10069324
Filed: February 20,2002
Attorney Docket No. 3170

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

This is a decision on the electronic petition, filed March 16,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 16,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6705684	2004-03-16	10/069,324	2002-02-20	3170

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	/Barbara S. Pedersen/	Date (YYYY-MM-DD)	2010-03-16
Name	Barbara S. Pedersen	Registration Number	36237

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.

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Paper No.

OSHA & MAY L.L.P.
1221 MCKINNEY STREET
HOUSTON TX 77010

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NOV 2 4 2004

OFFICE OF PETITIONS

In re Patent No. 6,722,571 :
Lavrut et al. :
Issue Date: April 20, 2004 : DECISION ON PETITION
Application No. 10/069,341 :
Filed: June 7, 2002 :
Atty Docket No.: 09669/022001 :

This is a decision on the REQUEST FOR PATENT TERM ADJUSTMENT PURSUANT TO CFR § 1.705(d) filed May 13, 2004. Patentees request that the patent term adjustment be changed to reflect 106 days of patent term adjustment.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred six (106) days.

On April 20, 2004, the above-identified application issued as U.S. Patent No. 6,722,571, with a revised patent term adjustment of thirty (30) days. Patentees timely filed the instant request within thirty days of the issue date. Patentees dispute the reduction of seventy-six (76) days associated in PAIR with the processing of drawings. Patentees contend that no correspondence or submissions were submitted between the receipt of the notice of allowance and the payment of the issue fee.

Patentees arguments are well-taken. A review of the application history confirms that no paper was filed after the mailing of the notice of allowance. Specifically, as stated by patentees, the drawings filed February 22, 2002 were accepted. The notice of allowability did not include a request for formal drawings and no such drawings (or other paper pursuant to 37 C.F.R. § 1.312) were filed after the mailing of the notice of allowance.

In view thereof, the patent should have issued with a revised Patent Term Adjustment of one hundred six (106) days.

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by ONE HUNDRED SIX (106) days.

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

Kerry A. Fries
for

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

Enclosure: Copy of DRAFT Certificate of Correction

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Paper No. 8

S. Peter Ludwig
DARBY & DARBY, P.C.
805 Third Avenue
New York, NY 10022

MAILED

NOV 19 2003

Technology Center 2100

In re Application of:
Baruch Sollish
Moshe Brody
Application No. 10/069,387
Filed: April 11, 2002
For: COPY-PROTECTED DIGITAL AUDIO COMPACT DISC AND METHOD AND SYSTEM FOR PRODUCING SAME

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed October 27, 2003.

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

The request filed October 27, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: Anne Killingsworth
Patent Paralegal
MACROVISION CORPORATION
Santa Clara, CA 95050

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MAR 29 2006

OFFICE OF PETITIONS

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

In re Application of :
Christophe Dauga et al. :
Application No. 10/069,402 : ON PETITION
Filed: December 9, 2002 :
Attorney Docket No. 012237-0290736 :

This is a decision on the petition filed March 20, 2006 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 November 23, 2005 for failure to file a timely response to the non-Final Office Action mailed August 22, 2005. Accordingly, a Notice of Abandonment was mailed March 7, 2006.

Petitioner claims that the Office Action mailed August 22, 2005 was never received and that in spite of an address change, the Office Action was mailed to an incorrect address. Petitioner submits as proof of their assertion, a copy of the address change and a copy of their docket records to show that the office action was mailed to an incorrect address.

A review of the file reveals that petitioners are in fact correct. A copy of the address change previously filed includes a USPTO date stamp of May 8, 2003. The address change was obviously acknowledged but the address information was not updated by the USPTO prior to the mailing of the non-Final Office Action on August 22, 2005. Furthermore, as further proof of non-receipt, both the Office Action and the Notice of Abandonment were returned to the USPTO as undeliverable. Thus, the non-Final Office Action was mailed to the wrong address and as petitioners claim, not received.

In view of the above, no petition fees are due and none have been charged.

The Notice of Abandonment is withdrawn and the file is being forwarded to Technology Center 3715 for the re-mailing of the non-Final Office Action originally mailed on August 22, 2005. Telephone inquiries concerning the re-mailing of the Office Action should be referred to the Technology Center. All other inquiries regarding this decision may be directed to the undersigned Petitions Attorney at (571) 272-3212.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of :
Christophe Dauga et al. :
Application No. 10/069,402 : ON PETITION
Filed: December 9, 2002 :
Attorney Docket No. 012237-0290736 :

This is a decision on the petition, filed February 29, 2008, under 37 CFR 1.181, to withdraw the holding of abandonment.

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

A Final Office Action was mailed November 16, 2006 which set a three month period for response. In response thereof, a Notice of Appeal was filed May 15, 2007, with a three month extension of time request. Instead of filing an Appeal Brief by July 15, 2007, petitioners argue that they filed an RCE on July 6, 2007. A Notice of Abandonment however was mailed on February 5, 2008, because the RCE and amendment were not matched with the file.

A search of the application file and the USPTO records do not reveal a copy of the RCE and amendment said to have been filed however the finance records show that the fee for the RCE was in fact charged on July 6, 2007. Based upon a copy of the RCE and the post-card receipt, date stamped by the USPTO on July 6, 2007, submitted with the instant petition as proof of timely filing, the evidence presented is sufficient to prove that the response was timely. The Notice of Abandonment mailed February 5, 2008 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 3714 for processing the RCE filed July 6, 2007.

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

MAR 2 6 2002

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WASHINGTON, D.C. 20231
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Joe Liebeschuetz
Townsend and Townsend and Crew
2 Embarcadero Center, 8th Floor
San Francisco, CA 94111

In re Application of
WOLNERMAN, Joseph Simcha
Application No.: 10/069,416
PCT Application No.: PCT/IL01/00276
International Filing Date: 22 March 2001
Priority Date: 22 March 2000
Attorney Docket No.: 082864-000000US
For: A COMPOSITION CONTAINING MONOTERPENES FOR TOPICAL ORAL ADMINISTRATION

DECISION ON

PETITION

UNDER 37 CFR 1.137(b)

Applicant's "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 06 February 2002 is **GRANTED**.

BACKGROUND

On 22 March 2001, applicant filed an international application, PCT/IL01/00276, which claimed a priority date of 22 March 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) by the International Bureau on 27 September 2001. The twenty month period for entering the national stage in the United States expired at midnight on 22 November 2001.

On 06 February 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, a petition to revive, payment of the petition fee and payment of 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).

Applicant states "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as application was filed on 22 March 2000. 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 (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for filing the oath or declaration after twenty months are required.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

14 OCT 2004

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Henry Feiereisen
350 Fifth Avenue
Suite 4714
New York, NY 10118

In re Application of: BERTELSHOFER, et al.	:	
U.S. Application No.: 10/069,423	:	DECISION ON PETITION TO
PCT No.: PCT/EP00/07142	:	CORRECT FILING DATE
International Filing Date: 26 July 2000	:	
Priority Date: 17 August 1999	:	
Atty Docket No.: BERTELSHOFER	:	
For: TENSIONING DEVICE FOR A TRACTION MECHANISM DRIVE	:	

This decision is issued in response to the "Petition Under 37 CFR 1.10(c)" filed 11 October 2004 to correct the filing date herein.[1] No petition fee is required.

BACKGROUND

On 26 July 2000, applicants filed international application PCT/EP00/07142 which claimed a priority date of 17 August 1999 and which designated the United States. On 22 February 2001, a copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) by the International Bureau (IB). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 19 February 2002 (17 February 2002 was a Sunday and 18 February 2002 was a federal holiday).

On 19 February 2002, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, a translation of the international application into English, and an executed declaration in compliance with 37 CFR 1.497.

On 28 March 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying 17 February 2002 as the date of receipt for the 35 U.S.C. 371 requirements. On the same date, a filing receipt was issued identifying 17 February 2002 as the filing date.

On 17 April 2003, applicants filed a Request For Corrected Filing Receipt seeking correction of the filing date to 19 February 2002. It does not appear that this request was acted on by the USPTO.

[1] The 11 October 2004 submission also included an "Amendment Pursuant To 37 CFR 1.312(a)." Pursuant to the procedure set forth in MPEP section 714.16(d), this amendment has been forwarded to the OIPE Central Scanning.

The application was subsequently forwarded for examination, and a Notification Of Allowance has now been issued.

On 11 October 2004, applicants filed the petition considered herein. The petition asserts that, because applicants filed the materials initiating this national stage application on 19 February 2002, the 35 U.S.C. 371 date for the present application should be corrected to 19 February 2002.

DISCUSSION

The Form-1390 Transmittal Letter filed by applicants (with accompanying materials) to initiate this national stage application included an "Express Mail" certification that identified the "Express Mail" label number as EV063148864US and identified the deposit date as 19 February 2002. The present petition includes a copy of "Express Mail" label number EV063148864US; this label bears a "date in" of 19 February 2002. Based on applicants' statements in the present petition and the "date in" on the "Express Mail" label, it is concluded that the materials filed by applicant to initiate this national stage application were deposited with the USPS as "Express Mail" on 19 February 2002. Pursuant to 37 CFR 1.10(c), these materials (which included the requirements under 35 U.S.C. 371(c)(1),(c)(2), and (c)(4)) are properly accorded a filing date of 19 February 2002.

CONCLUSION

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

The Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed 28 March 2003 are hereby **VACATED**.

The National Stage Processing Branch of the Office of PCT Operations will be instructed to issue a corrected Notification of Acceptance (Form PCT/DO/EO/903) properly identifying 19 February 2002 as the date of receipt of the requirements under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4), and to issue a corrected filing receipt identifying 19 February 2002 as the filing date.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0419

UNITED STATES PATENT AND TRADEMARK OFFICE

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

06 JUN 2007

Michael J. Stricker
Striker Striker & Stenby
103 East Neck Road
Huntington, New York 11743

In re Application of
HOFSAESS, Michael
App. No.: 10/069,452
PCT No.: PCT/DE01/00591
Int. Filing Date: 16 February 2001
Priority Date: 26 February 2000
Attorney Docket No.: 1780
For: MEASURING INSTRUMENT AND METHOD FOR DETECTING A FORCE

DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition to Withdraw Holding of Abandonment" which is being treated as a petition under 37 CFR 1.181 filed in the United States Patent and Trademark Office (PTO) filed 29 March 2004. Additionally, this decision is in response to applicant's "Petition to Revive" filed 14 December 2006.

BACKGROUND

On 16 February 2001, applicant filed international application PCT/DE01/00591, which claimed priority of an earlier application filed 26 February 2000. On 30 August 2001, the International Bureau ("IB") communicated a copy of the international application to the United States Patent And Trademark Office ("USPTO").

On 25 October 2001, applicant filed a transmittal letter for a patent application under 35 U.S.C. 371 in the United States, which was accompanied by, inter alia: the basic national fee; an English language translation of the international application; and a preliminary amendment

On 20 May 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a) and (b).

On 09 March 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment under 35 U.S.C. 371 (Form PCT/DO/EO/909) indicating that the

application was abandoned for failure to respond the Notification of Missing Requirements mailed 20 May 2002.

On 29 March 2004, applicant filed "Petition to Withdraw Holding of Abandonment" which was accompanied by: a copy of a postcard receipt dated 11 June 2002 for application no. 10/069,452; a copy of a transmittal letter; and a copy of an executed declaration and power of attorney.

On 14 December 2006, applicant filed a "Petition to Revive."

DISCUSSION

Applicant states in their present petition that a declaration was received at the United States Patent and Trademark Office on 11 June 2002. A review of the present application reveals that the declaration filed 11 June 2002 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Here, applicants have provided a copy of their date-stamped postcard receipt. The receipt identifies the application by applicant and docket number. The receipt identifies the serial/application number as 10/069,452. The receipt itemizes, among other things, an executed declaration. The receipt is stamped "Rec'd. PCT/PTO 11 JUN 2002" across its face is sufficient to indicate that the declaration was in fact received in the Office on 11 June 2002.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

In view of the receipt of the declaration filed 11 June 2002, which was a timely response to the Notification of Missing Requirements mailed 20 May 2002, the holding of abandonment is hereby **WITHDRAWN**.

Applicant's petition to revive under 37 CFR 1.137(b) is **DISMISSED** as moot. The petition fee will be refunded to Deposit Account no. 19-4675.

A review of the application papers reveals that applicant completed all the requirements of 35 U.S.C. 371 for entry into the national stage.

This application will be given an international application filing date of 16 February 2001 and a date of **11 June 2002** under 35 U.S.C. 371.

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

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

#9

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06 JUN 2007

Michael J. Stricker
Striker Striker & Stenby
103 East Neck Road
Huntington, New York 11743

In re Application of
HOFSAESS, Michael
App. No.: 10/069,452
PCT No.: PCT/DE01/00591
Int. Filing Date: 16 February 2001
Priority Date: 26 February 2000
Attorney Docket No.: 1780
For: MEASURING INSTRUMENT AND METHOD FOR DETECTING A FORCE

DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition to Withdraw Holding of Abandonment" which is being treated as a petition under 37 CFR 1.181 filed in the United States Patent and Trademark Office (PTO) filed 29 March 2004. Additionally, this decision is in response to applicant's "Petition to Revive" filed 14 December 2006.

BACKGROUND

On 16 February 2001, applicant filed international application PCT/DE01/00591, which claimed priority of an earlier application filed 26 February 2000. On 30 August 2001, the International Bureau ("IB") communicated a copy of the international application to the United States Patent And Trademark Office ("USPTO").

On 25 October 2001, applicant filed a transmittal letter for a patent application under 35 U.S.C. 371 in the United States, which was accompanied by, inter alia: the basic national fee; an English language translation of the international application; and a preliminary amendment

On 20 May 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a) and (b).

On 09 March 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment under 35 U.S.C. 371 (Form PCT/DO/EO/909) indicating that the

application was abandoned for failure to respond the Notification of Missing Requirements mailed 20 May 2002.

On 29 March 2004, applicant filed "Petition to Withdraw Holding of Abandonment" which was accompanied by: a copy of a postcard receipt dated 11 June 2002 for application no. 10/069,452; a copy of a transmittal letter; and a copy of an executed declaration and power of attorney.

On 14 December 2006, applicant filed a "Petition to Revive."

DISCUSSION

Applicant states in their present petition that a declaration was received at the United States Patent and Trademark Office on 11 June 2002. A review of the present application reveals that the declaration filed 11 June 2002 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Here, applicants have provided a copy of their date-stamped postcard receipt. The receipt identifies the application by applicant and docket number. The receipt identifies the serial/application number as 10/069,452. The receipt itemizes, among other things, an executed declaration. The receipt is stamped "Rec'd. PCT/PTO 11 JUN 2002" across its face is sufficient to indicate that the declaration was in fact received in the Office on 11 June 2002.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

In view of the receipt of the declaration filed 11 June 2002, which was a timely response to the Notification of Missing Requirements mailed 20 May 2002, the holding of abandonment is hereby **WITHDRAWN**.

Applicant's petition to revive under 37 CFR 1.137(b) is **DISMISSED** as moot. The petition fee will be refunded to Deposit Account no. 19-4675.

A review of the application papers reveals that applicant completed all the requirements of 35 U.S.C. 371 for entry into the national stage.

This application will be given an international application filing date of 16 February 2001 and a date of **11 June 2002** under 35 U.S.C. 371.

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

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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

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OFFICE OF PETITIONS

In re Application of	:	
Pruche et al.	:	
Application No. 10/069,460	:	ON PETITION
Filed: 11 June, 2002	:	
Atty Docket No. 2365-35	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 18 October, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 8 July, 2004, for failure to timely file a reply to the final Office action mailed on 7 April,

---

[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)).

2004, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

On 18 October, 2004, the present petition was filed, accompanied by a Request for Continued Examination (RCE) and an amendment and an Information Disclosure Statement (IDS) indicated as the submission required under 37 CFR 1.114.

The application will be referred to Technology Center Art Unit 1616 for consideration of the RCE, amendment, and IDS.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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AUG - 9 2004

In re Application of Michael G. Chaparian Serial No. 10/069,490 Filed: February 15, 2002 For: METHODS AND TARGETS OF ANTIBIOTIC RESISTANCE	:	NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after payment of the issue fee due to a mistake on the part of the Office. 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 Bruce Campell at (571) 272-0974.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Bruce M. Kisliuk
Director, Technology Center 1600

Kenneth I Kohn
Kohn & Associates
30500 Northwestern Hwy
Suite 410
Farmington Hills MI 48334

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OCT 29 2004
OIPE/JCWS

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AUG - 9 2004

In re Application of Michael G. Chaparian Serial No. 10/069,490 Filed: February 15, 2002 For: METHODS AND TARGETS OF ANTIBIOTIC RESISTANCE	:	NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after payment of the issue fee due to a mistake on the part of the Office. 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 Bruce Campell at (571) 272-0974.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Bruce M. Kisliuk
Director, Technology Center 1600

Kenneth I Kohn
Kohn & Associates
30500 Northwestern Hwy
Suite 410
Farmington Hills MI 48334

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Donald W. Hanson
Armstrong, Westerman & Hattori, LLP
1725 K Street, NW, Suite 1000
Washington, D.C. 20006

In re Application of
ISHIOKA et al.
Application No.: 10/069,522
PCT No.: PCT/JP01/04994
Int. Filing Date: 13 June 2001
Priority Date: 16 June 2000
Attorney Docket No.: 020239
For: INSPECTION APPARATUS AND INSPECTION METHOD

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

BEST AVAILABLE COPY

The petition to revive under 37 CFR 1.137(b) filed 05 March 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted the basic national fee of $445 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.

Deposit Account No. 01-2340 has been charged a $130.00 processing under 37 CFR 1.492(f) for supplying an English translation later than 20 months from the earliest claimed priority date.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration is required.

Anthony Smith
Attorney-Advisor
PCT Legal Office
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

APR 16 2002

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WASHINGTON, D.C. 20231
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ARMSTRONG,WESTERMAN & HATTORI, LLP
1725 K STREET, NW.
SUITE 1000
WASHINGTON, DC 20006

In re Application of
ISHIOKA et al.
Serial No.: 10/069,523
PCT No.: PCT/JP01/04993
Int. Filing Date: 13 June 2001
Priority Date: 16 June 2000
Attorney's Docket No.: 020238
For: DEVICE AND METHOD FOR INSPECTION

: DECISION ON PETITION

: UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 05 March 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that the "entire delay from the deadline for entry into the U.S. national stage to the date of the present petition was unintentional"has been interpreted as meaning that "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) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

A review of the application file reveals that the basic national fee of $445 and the required petition fee of $640 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 the issuance of a Notification of Missing Requirements indicating that an oath or declaration executed by the inventors and the $65 surcharge for filing the declaration after the twenty month period is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Telephone: (703) 306-5467

14 FEB 2003

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

Corporate Patent Counsel
Phillips Electronics North America Corporation
580 White Plains Road
Tarrytown, NY 10591

3#

In re Application of	:	
CHEVALLIER, Gilles	:	
Application No.: 10/069,536	:	DECISION ON
PCT No.: PCT/EP01/07406	:	
Int. Filing Date: 28 June 2001	:	PETITION
Priority Date: 30 June 2000	:	
Attorney Docket No.: FR 000072	:	UNDER 37 CFR 1.182
For: SELF-CONFIGURABLE AMPLIFIER CIRCUIT	:	

This decision is in response to applicants' "Petition Under 37 CFR 1.182," filed with the United States Patent and Trademark Office on 23 July 2002.

BACKGROUND

On 25 February 2002, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission included, *inter alia*, a Transmittal Letter, a declaration of the inventor, and the basic national fee. The Transmittal Letter indicated the international application number was PCT/EP99/07014. However, the title and inventor listed on the transmittal were those of PCT/EP01/07406. The declaration and assignment both indicated they were for PCT/EP01/07406. Additionally, PCT/EP99/07014 did not designate the United States.

On 23 July 2002, applicants submitted the instant petition under 37 CFR 1.182.

DISCUSSION

Applicants have explained that the paperwork was directed toward a national stage entry of PCT/EP01/07406. The indications will be corrected in the file and the file will be processed as a national stage entry of PCT/EP01/07406.

CONCLUSION

For the reasons listed above, the Petition Under 37 CFR 1.182 is **GRANTED**.

The application has an international filing date of 28 June 2001 under 35 U.S.C. §363 and a date of 25 February 2002 under 35 U.S.C. §371. This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

MAY 2 1 20

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

Corporate Patent Counsel
Phillips Electronics North America Corporation
580 White Plains Road
Tarrytown, NY 10591

In re Application of :
CHEVALLIER, Gilles :
Application No.: 10/069,536 :
PCT No.: PCT/EP99/07014 :
Int. Filing Date: 17 September 1999 : NOTIFICATION
Priority Date: 05 October 1998 :
Attorney Docket No.: FR 000072 :
For: SELF-CONFIGURABLE AMPLIFIER CIRCUIT :

This application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371.

On 25 February 2002, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission included, *inter alia*, a Transmittal Letter, a declaration of the inventor, and the basic national fee. The Transmittal Letter indicates the international application number is PCT/EP99/07014. However, the title and inventor listed on the transmittal are those of PCT/EP01/07406. The declaration and assignment both indicate they are for PCT/EP01/07406. Additionally, PCT/EP99/07014 does not designate the United States

Applicant is required to file a reply to this communication resolving the above-stated inconsistency. A proper reply would include a petition under 37 CFR 1.182, including the petition fee set forth in 37 CFR 1.17(h), to correct the Transmittal Letter.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available. Failure to timely file a proper response will result in abandonment of the application.

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

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

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Commissioner for Patents
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P.O. Box 1450
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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JUL 28 2008

In re Application of :
Kenichi MUNEMOTO, et al :
Application No. 10/069,542 : DECISION ON PETITION
Filed: February 27, 2002 :
Attorney Docket No. 1035-367 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 8, 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 April 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2121 for appropriate action by the Examiner in the normal course of business on the reply received January 3, 2008.

for Thurman 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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Date: 07/03/08

Patent No. : 7360984 B1
Ser. No. : 10/069,580
Inventor(s) : SUGIYAMA, HIDETOSHI
Issued : 04/22/08
Title : **AUTOMATIC ANALYZER AND PART FEEDING DEVICE USED FOR THE ANALYZER**
Docket No. : **ASA-1069**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703)-305-5358 or (703) 308-9390 #112

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

LMN

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JUL 30 2008
PATENT & TRADEMARK OFFICE

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.	:	7,360,984	Confirmation No. 3826
Issue Date	:	April 22, 2008	
Applicant	:	H. SUGIYAMA et al.	
Appl. No.	:	10/069,580	
Filed	:	May 17, 2002	
Title	:	AUTOMATIC ANALYZER AND PART FEEDING DEVICE USED FOR THE ANALYER	
Docket No.	:	ASA-1069	
Customer No.:		24956	

Commissioner for Patents
Office of Patent Publications
ATTN: Certificate of Correction Branch
P.O. Box 1450
Alexandria, VA 22313-1450

July 30, 2008

REQUEST FOR CERTIFICATE OF CORRECTION
APPLICANTS' MISTAKE (37 CFR §1.323)

Sir:

Enclosed is a Certificate of Correction form. Please issue a Certificate of Correction to correct the name of the assignee. The failure to include the correct assignee names on the PTOL-85B form was inadvertent.

Pursuant to MPEP §1481, it is submitted that the mistake is either:

(1) of a clerical nature,

(2) of a typographical nature, or

(3) a mistake of minor character.

07/31/2008 JADD01 00000045 7360984
01 FC:1464 130.00 OP

Patent No. 7,360,984
Certificate of Correction dated July 30, 2008

Furthermore, it is submitted that the correction does not involve changes which would:

(1) constitute new matter, or

(2) require reexamination.

A copy of the Notice of Recordation of Assignment Document is attached.

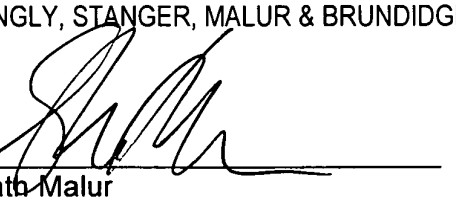
Since the Certificate of Correction is necessitated by a mistake on the part of the Applicants, in accordance with 37 CFR §1.117(h) our Credit Card Payment Form in the amount of $130.00 is attached in payment of the appropriate fee along with a copy of the original Notice of Recordation of Assignment Document dated December 10, 2004, reflecting the reel and frame number where the assignment and the recordation date of the assignment bearing the Assignees to be both Hitachi, Ltd. and Roche Diagnostics Corporation.

It is further requested that the file of this application be forwarded to the Certificate of Correction Branch for issuance of a Certificate of Correction, if this Request is granted.

The Commissioner is hereby authorized to charge additional payment due or to credit any overpayment, to Deposit Account No. 50-1417.

Respectfully submitted,

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.



By
Shrinath Malur
Registration No. 34,663
(703) 684-1120

(ASA-1069)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. :	7,360,984
APPLICATION NO.:	10/069,580
ISSUE DATE :	April 22, 2008
INVENTOR(S):	H. SUGIYAMA et al.

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

ON THE TITLE PAGE

Please correct (73) Assignee to read as follows:

(73) Assignee: Hitachi, Ltd. Tokyo (JP)
Roche Diagnostics Corp. (part interest), Indianapolis, IN (US)

Mailing Address of Sender:

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 Diagonal Road, Suite 370
Alexandria, Virginia 22314

ASSIGNMENT

Whereas, HITACHI, LTD., a corporation organized under the laws of Japan, located at 6, Kanda Surugadai 4-chome, Chiyoda-ku, Tokyo 101-8010, Japan,

is the owner, by an assignment from the inventors, Hidetoshi SUGIYAMA , Katsuaki TAKAHASHI, Hideyuki YANAMI , and Stephan SATTLER of the entire right, title and interest in and for the United States of America, in and to the invention entitled

"AUTOMATIC ANALYZER AND PART FEEDING DEVICE FOR THE ANALYZER"

described in United States Patent Application Serial No. 10/069,580, filed on February 27, 2002, as evidenced reel 012909, frame 0024 and reel 014589, frame 0334; and

whereas, Roche Diagnostics Corporation, a corporation organized under the laws of the United States, located at 9115 Hague Road, Indianapolis, Indiana 46250 U.S.A., is desirous of acquiring an undivided one-half (1/2) of the entire right, title and interest in and to the invention in the United States of America as described in said United States Patent Application;

Now, therefore, in consideration of the sum of One Dollar ($1.00) or the equivalent thereof, and other good and valuable consideration, the receipt of which is hereby acknowledged, HITACHI, LTD. hereby assigns to Roche Diagnostics Corporation, an undivided one-half (1/2) of its entire right, title and interest in and to the invention in the United States of America described in said United States Patent Application.

Signed at Tokyo, Japan, this 20th day of September, 2004.

HITACHI, LTD.

By: _____
Signature

Printed Name Yasuo SAKUTA, Patent Attorney
Executive Officer,
Intellectual Property Group
(Authorized Signing Officer)
Title

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

700136820A

DECEMBER 10, 2004

PTAS

MATTINGLY, STANGER & MALUR, P.C.
JOHN R. MATTINGLY
1800 DIAGONAL ROAD, SUITE 370
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 12/08/2004 REEL/FRAME: 015434/0642
NUMBER OF PAGES: 2

BRIEF: ASSIGNMENT OF ONE/HALF INTEREST

ASSIGNOR:
HITACHI, LTD. DOC DATE: 09/24/2004

ASSIGNEE:
ROCHE DIAGNOSTICS CORPORATION
9115 HAGUE ROAD
INDIANAPOLIS, INDIANA

SERIAL NUMBER: 10069580 FILING DATE: 05/17/2002
PATENT NUMBER: ISSUE DATE:
TITLE: AUTOMATIC ANALYZER AND PART FEEDING DEVICE USED FOR THE ANALYZER

ANTIONE ROYALL, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

PATENTS ONLY (ref OG 7/28/92)

To the Honorable Commissioner of Patents and Trademarks:
Please record the attached original document or copy thereof.

1. Name of Party(ies) conveying an interest:

HITACHI, LTD.

2. Name and Address of Party(ies) receiving an interest:

ROCHE DIAGNOSTICS CORPORATION
9115 Hague Road
Indianapolis, Indiana USA

3. Description of the interest conveyed: Assignment of one/half interest

4. Application number(s) or patent number(s).

Additional sheet attached? ___ Yes XXX No

If this document is being filed together with a new application, the execution date of the application is: _____
DATE

A. Patent Application No.(s)

10/069,580

B. Patent No.(s)

5. Name and address of party to whom correspondence concerning document should be mailed:

John R. Mattingly
Mattingly, Stanger & Malur, P.C.
1800 Diagonal Road, Suite 370
Alexandria, Virginia 22314

6. Number of applications and patents involved: One

7. Amount of fee enclosed or authorized to be charged: $40.00

8. The Commissioner is hereby authorized to charge Deposit Account No. 50-1417 if no credit card payment form is attached.

DO NOT USE THIS SPACE

9. Execution date of attached document: September 20, 2004

10. To the best of my knowledge and belief, I declare under penalty of perjury under the laws of the United States of America that the foregoing information is true and correct and that any attached copy is a true copy of the original document.

Shrinath Malur
Name of Person Signing

Signature

December 8, 2004
Date

Total number of pages being submitted: 4

OP $40.00 10069580

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OIPE IAP07
JUL 30 2008
PATENT & TRADEMARK OFFICE

Date: 07/03/08

Patent No. : 7360984 B1
Ser. No. : 10/069,580
Inventor(s) : SUGIYAMA, HIDETOSHI
Issued : 04/22/08
Title : **AUTOMATIC ANALYZER AND PART FEEDING DEVICE USED FOR THE ANALYZER**
Docket No. : **ASA-1069**

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

JUL 7 - 2008

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.

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

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

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703)-305-5358 or (703) 308-9390 #112

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

LMN

06 FEB 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Naman, Howell, Smith & Lee PC
700 Texas Center
P.O. Box 1470
Waco, TX 76703-1470

In re Application of SLAGA et al :
U.S. Application No.: 10/069,604 :
Int. Application No.: PCT/US01/08718 : DECISION
Int. Filing Date: 19 March 2001 :
Priority Date: 17 March 2000 :
Attorney Docket No.: 2ME-PCT :
For: AGENTS AND METHODS FOR THE PREVENTION OF INITIAL ONSET OF CANCERS, THE TREATMENT OF CANCERS, AND THE RECURRENCE OF EXISTING CANCERS :

This is in response to applicant's "Petition to Revive Abandoned Application" filed 27 January 2002, which is being treated as a petition under 37 CFR 1.181 to withdraw a holding of abandonment. No petition fee is due.

BACKGROUND

On 19 March 2001, applicant filed international application PCT/US01/08718, which claimed priority of an earlier United States application filed 17 March 2000.

On 26 February 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 22 January 2003, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned as to the United States for failure to timely file the basic national fee by 20 months from the priority date.

DISCUSSION

A review of the application file for PCT/US01/08718 reveals that a Demand for International Preliminary Examination (Form PCT/IPEA/401) was filed on 17 October 2001, i.e.

prior to the expiration of 19 months from the priority date. Accordingly, the basic national fee was due in the USPTO on 17 September 2002, i.e. 30 months from the priority date. Thus, the basic national fee was timely filed on 26 February 2002.

CONCLUSION

For the reasons above, the Notification of Abandonment (Form PCT/DO/EO/909) mailed 22 January 2003 is hereby VACATED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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 23 2007

OFFICE OF PETITIONS

In re Application of :
Albrecht Goecke, et al. :
Application No. 10/069,621 : DECISION ON PETITION
Filed: June 5, 2002 : TO WITHDRAW
Attorney Docket No. 449122021700 : 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, 2007.

The request is **APPROVED**.

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

The request was signed by Deborah Gladstein on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with the Customer Number 25227 have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed September 25, 2007 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: ALBRECHT GOECKE
WHISTLERWEG 13
MUENCHEN 81479 GERMANY

cc: KEVIN SPEIVAK
BELL, BOYD & LLOYD, LLC
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602-4207

06 SEP 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

#9

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

The Procter & Gamble Company
Intellectual Property Division
Winton Hill Technical Center - Box 161
6110 Center Hill Avenue
Cincinnati, OH 45224

In re Application of DYKSTRA :
U.S. Application No.: 10/069,628 :
Int. Application No.: PCT/US00/23322 : DECISION
Int. Filing Date: 25 August 2000 :
Priority Date: 27 August 1999 :
Attorney Docket No.: 7755 :
For: BLEACH BOOSTING COMPONENTS, :
COMPOSITIONS AND LAUNDRY METHODS :

This is in response to applicant's "Petition and Fee to Correct Inventorship Under 37 CFR 1.48(a)" filed 05 July 2002, which is being treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 25 August 2000, applicant filed international application PCT/US00/23322, which claimed priority of an earlier United States application filed 27 August 1999. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 27 February 2002.

On 26 February 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 20 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.

On 05 July 2002, applicant filed the present petition under 37 CFR 1.497(d) along with an executed declaration.

DISCUSSION

37 CFR 1.497(d) (effective 07 November 2000) states,

> If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration 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 § 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

With regard to item (1) above, applicant has provided the requisite statement.

With regard to item (2) above, applicant has provided the requisite processing fee.

With regard to item (3) above, in situations where an assignee consents to a correction of inventorship, ownership of the application must be established. See MPEP 324. Under 37 CFR 3.73(b), ownership is established by documentary evidence of a chain of title from the original owner to the assignee. In the present case, the petition is accompanied by an "Assignee Consent to Petition under 37 CFR 1.48(a) to Correct Inventorship" which states that The Procter & Gamble Company is the assignee of the present invention. The consent statement is signed by a person who states that he is authorized to act on behalf of the assignee. Although the consent statement states that the assignment is being recorded simultaneously with the filing of the present petition, applicant has provided neither a copy of the assignment agreement nor a statement specifying by reel and frame where the assignment has been recorded in the USPTO. See 37 CFR 3.73(b)(1).

CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)".

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

15 NOV 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

#11

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

The Procter & Gamble Company
Intellectual Property Division
Winton Hill Technical Center - Box 161
6110 Center Hill Avenue
Cincinnati, OH 45224

In re Application of DYKSTRA :
U.S. Application No.: 10/069,628 :
Int. Application No.: PCT/US00/23322 : DECISION
Int. Filing Date: 25 August 2000 :
Priority Date: 27 August 1999 :
Attorney Docket No.: 7755 :
For: BLEACH BOOSTING COMPONENTS, :
COMPOSITIONS AND LAUNDRY METHODS :

This is in response to applicant's "Petition and Fee to Correct Inventorship Under 37 CFR 1.48(a)" filed 31 October 2002, which is being treated as a renewed petition under 37 CFR 1.497(d).

BACKGROUND

On 25 August 2000, applicant filed international application PCT/US00/23322, which claimed priority of an earlier United States application filed 27 August 1999. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 27 February 2002.

On 26 February 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 20 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.

On 05 July 2002, applicant filed a petition under 37 CFR 1.497(d) along with an executed declaration.

On 06 September 2002, this Office mailed a decision dismissing the 05 July 2002 petition on grounds that consent of the assignee had not been established.

On 31 October 2002, applicant filed the present renewed petition along with a copy of an assignment agreement.

DISCUSSION

37 CFR 1.497(d) (effective 07 November 2000) states,

> If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration 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 § 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Applicant has previously satisfied items (1) and (2) above.

With regard to item (3) above, in situations where an assignee consents to a correction of inventorship, ownership of the application must be established. See MPEP 324. Under 37 CFR 3.73(b), ownership is established by documentary evidence of a chain of title from the original owner to the assignee. In the present case, the petition is accompanied by an "Assignee Consent to Petition under 37 CFR 1.48(a) to Correct Inventorship" which states that The Procter & Gamble Company is the assignee of the present invention. The consent statement is signed by a person who states that he is authorized to act on behalf of the assignee. In addition, applicant has provided a copy of an assignment agreement as set forth in 37 CFR 3.73(b)(1). Therefore, applicant has sufficiently demonstrated written consent of the assignee.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is GRANTED.

The application has an International Filing Date of 25 August 2000 and a date under 35 U.S.C. 371(c) of 26 February 2002.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

19 NOV 2004

#9

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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PROCTOR & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
Winton Hill Technical Center - Box 161
6110 Center Hill Avenue
Cincinnati, OH 45224

In re Application of
DYKSTRA, Robert Richard *et al*
U.S. Application No.: 10/069,635
PCT No.: PCT/US00/23323
Int. Filing Date: 25 August 2000
Priority Date: 27 August 1999
Attorney Docket No.: 7749X
For: CONTROLLED AVAILABILITY OF FORMULATION COMPONENTS COMPOSITIONS AND LAUNDRY METHODS EMPLOYING SAME

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

Applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 24 March 2004 with a "Response to Notification of Defective Response" is hereby **GRANTED** as follows:

A substitute computer readable form sequence listing containing no errors was provided with the instant petition. The petition fee of $1,330.00 has been paid. Applicants state that "[t]he entire delay in commencing U.S. national stage processing between 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.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 25 August 2000, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 26 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
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET
SUITE 4000
MINNEAPOLIS MN 55402

COPY MAILED

AUG 0 9 2007

OFFICE OF PETITIONS

In re Application of :
Clifton-Bligh, Gervase :
Application No. 10/069,639 : ON PETITION
Filed: July 8, 2002 :
Attorney Docket No. 32414.32.0 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 26, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 2600 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET, SUITE 4000
MINNEAPOLIS, MN 55402

COPY MAILED

DEC 0 4 2009

OFFICE OF PETITIONS

In re Application of :
Gervase Clifton-Bligh :
Application No. 10/069,639 : ON PETITION
Filed: July 8, 2002 :
Attorney Docket No. 57008.10.1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 17, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on June 18, 2009. A Notice of Abandonment was mailed September 29, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted on October 9, 2009, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioners credit card in due course.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 2629 for further examination on the merits.

/Bottorff/ for

Chris Bottorff
Petitions Examiner
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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55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

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OFFICE OF PETITIONS

In re Application of :
LEROY :
Application No.: 10/069,670 : DECISION
Filing Date: February 22, 2002 :
Attorney's Docket No.: P-6451 :

This decision is in response to applicants' "PETITION UNDER 37 CFR 1.181(A)" filed December 26, 2006, to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **DISMISSED** for the reasons set forth below.

If applicants can establish nonreceipt of the Notice of Non-Compliant Amendment mailed January 23, 2006, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement by the practitioner attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

As to item (1), a statement by the relevant practitioner has not been provided. Indeed, it is not clear who the relevant practitioner is. It could be Mr. Kenaga or Mr. Colandreo. Neither has provided a statement.

As to item (2), this statement must also be made by the relevant practitioner. The only statement provided here is by the docketing clerk Olga Melendez.

As to item (3), MPEP § 711.03(c)), para. I.A. states that "[f]or example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report *showing all replies docketed for a date three months from the mail date of the nonreceived Office action* must be submitted as documentary proof of nonreceipt of the Office action" (emphasis added). Such a docket report has not been provided. Rather, the docket report provided shows only the entries made for application number 10/069,670.

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 reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Alternatively, applicant may wish to file a petition under 37 CFR 1.137(b). If such a petition is filed, the proper response (to the Notice of Non-Compliant Amendment mailed January 23, 2006) must be included.

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

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

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

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SEP 26 2007

OFFICE OF PETITIONS

In re Application of :
LEROY :
Application No.: 10/069,670 : DECISION ON PETITION
Filing Date: February 22, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: P-6451 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 14, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 16, 2005, which set a shortened statutory period for reply of three (3) months. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, by operation of law, the above-identified application became abandoned on October 17, 2005 (October 16, 2005 being a Sunday).

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 in compliance with 37 CFR 1.121; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action mailed May 16, 2005 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 2145 for appropriate action, if any, on the reply in due course.

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

MAY 10 2002

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David A. Greenlee
P.O. Box 340557
Columbus, OH 43234-0557

In re Application of	:	
MAYER, David F.	:	DECISION VACATING
Application No.: 10/069,672	:	
PCT No.: PCT/US01/19944	:	NOTIFICATION OF MISSING
Int. Filing Date: 22 June 2001	:	
Priority Date: 22 June 2000	:	REQUIREMENTS
Attorney Docket No.: 30533	:	
For: MASSIVELY PARALLEL FIXED	:	
HEAD DISK DRIVE	:	

This application is before the PCT Legal Office for issues arising under 35 U.S.C. 371.

BACKGROUND

On 22 June 2001, applicant filed international application PCT/US01/19944 which claimed a priority date of 22 June 2000. A DEMAND for preliminary examination was not filed prior to the expiration of the 19 months from the priority date. Accordingly, the twenty-month period for paying the basic national fee expired at midnight on 22 February 2002.

On 22 February 2002, applicant filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee of $370 and an international search report.

On 09 April 2002, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

CONCLUSION

The declaration of inventorship filed with international application under PCT Rule 4.17(iv) and 51bis.1(a)(iv) complies with 37 CFR 1.497, therefore, the Notification of Missing Requirements (Form PCT/DO/EO/905) dated 09 April 2002 is hereby **VACATED**.

The application has an international filing date of 22 June 2001 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **22 February 2002**.

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Attorney-Advisor
PCT Legal Office
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

#4

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19 AUG 2003

Charles F. Wieland, III
Burns, Doane, Swecker & Mathis, LLP
P.O. Box 1404
Alexandria, VA 22313-1404

In re Application of
KIM
U.S. Application No.: 10/069,677
PCT No.: PCT/KR00/00915
Int. Filing Date: 17 August 2000
Priority Date: 21 August 1999
Attorney Docket No.: 023833-124
For: ABDOMINAL EXERCISER

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This decision is in response to applicant's "Petition For Revival of Application Abandoned Unintentionally Under Rule 1.137(b) filed 27 December 2002 in the United States Patent and Trademark Office (USPTO). Applicant has provided payment of the $640.00 small entity petition fee.

BACKGROUND

On 17 August 2000, applicant filed international application PCT/KR00/00915, which claimed priority of an earlier application filed 21 August 1999. A Demand for international preliminary examination, in which the United States was elected was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 21 February 2002.

On 20 February 2002, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by an executed combined declaration and power of attorney of the inventor and a First preliminary amendment.

On 03 December 2002, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that the present application was abandoned as to the United States for failure to pay the full, U.S. Basic National Fee by 30 months.

On 27 December 2002, applicant filed the present petition to revive accompanied by a check in the amount of $1160.00 ($640.00 as payment of the petition fee and $520.00 as payment of the full, U.S. basic national fee).

DISCUSSION

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

With regard to Item (1), the proper response was payment of the full U.S. Basic National fee. Applicant has provided this payment with the present petition.

As to Item (2), applicant has included the petition fee of $640.00 along with the present petition.

With regard to Item (3), applicant's statement that the "Applicant petitions for revival of the application which was unintentionally abandoned under 37 C.F.R. § 1.137(b)" is being interpreted to mean that the entire delay in providing the proper reply from the due date for providing the proper reply until the filing of a grantable petition pursuant to this paragraph was unintentional. If this is an incorrect reading of applicant's statement applicant should contact the Office of PCT Legal Administration immediately. Applicant's statement and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

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

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

CONCLUSION

For the reasons stated above, applicant's petition to revive under 37 CFR 1.137(b) is **GRANTED**.

Application No.: 10/069,677

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **27 December 2002**.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
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18 JUN 2004

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GLAXOSMITHKLINE
Corporate Intellectual Property- UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939

In re Application of	:	DECISION ON
BARGES et al	:	
Application No.: 10/069,681	:	
PCT No.: PCT/EP00/08048	:	PETITION
Int. Filing Date: 17 August 2000	:	
Priority Date: 20 August 1999	:	
Attorney's Docket No.: P32396	:	UNDER 37 CFR 1.182
For: PHARMACEUTICAL FORMULATION	:	
COMPRISING AMOXYCILLIN AND	:	
CLAVULANATE	:	

This decision is in response to the "PETITION UNDER 37 CFR §1.181 OR A PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ADANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed 19 February 2004, which is being treated as a petition under 37 CFR 1.182 to withdraw the holding of abandonment. Applicants' Deposit Account No. 19-2570 is being charged the $130.00 petition fee as authorized in the petition submitted on 19 February 2004. The petition fee of $1,330.00 under 1.137(b) will be refunded to applicants' Deposit Account no: 19-2570 since the petition is being acted under 37 CFR 1.182.

BACKGROUND

On 17 August 2000, this international application was filed, claiming an earliest priority date of 20 August 1999.

On 19 February 2002, applicants filed a Transmittal letter for entry into the national stage in the United States, which was accompanied, inter alia, by the requisite basic national fee as required by 35 U.S.C. 371 (c)(1). However, no oath or declaration of the inventors accompanied the transmittal letter.

On 02 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) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date" must be submitted within two(months) from the date of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 02 December 2002, applicants filed a response to the NOTIFICATION OF MISSING REQUIREMENTS. However, the response contained the incorrect U.S. serial number 09/077,263 instead of the incorrect number 10/069,681.

On 29 January 2004, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909), which indicated that applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed 05/02/2002 within the time period set therein.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 29 January 2004, applicants have submitted the instant petition requesting withdrawal of the Notice of Abandonment or a Revival of the application unintentionally abandoned. In support of the petition, applicants have provided a copy of the returned/stamped receipt card acknowledging a receipt date of 02 December 2002 and a statement that there was sufficient identification of the correct Application Number because the papers submitted did have the application's correct Docket No., and correct International Application No. PCT/EP00/08048.

DISCUSSION

POSTCARD:

Applicants' present petition accompanied by a copy of the following documents, filed purportedly, *inter alia*, with the PTO as indicated in the stamped postcard:

(1) Declaration & Power of Attorney
(2) Assignment
(3) Transmittal letter National Stage Entry

The postcard lists the above items and bears a USPTO date of stamp as 02 December 2002.

MPEP 503 provides:

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

Applicants' postcard is accepted as *prima facie* that a Declaration was deposited with the U.S. Patent and Trademark Office on 02 December 2002.

Accordingly, the date of receipt for the Declaration is 02 December 2002.

INCORRECT NUMBER:

Applicants states that there was sufficient identification of the correct Application Number because the papers submitted did have the application's correct Docket No., and correct

International Application No. PCT/EP00/08048. In this instance, there is sufficient evidence that the application number 09/077,263 on the Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) is incorrect. It is apparent from the papers submitted that the correct application number to the Reply to the Notification of Missing Requirement is 10/069,681 because there is sufficient identification such as the correct Attorney Docket No., and the correct International Application No.: PCT/EP00/08048 to correlate the submitted papers with the correct Application (10/069,681).

Since the declaration was submitted on 02 December 2002 five months after the due date indicated by the Notification mailed on 02 May 2002, there is a five (5) month extension fee of $2,010.00 being charged to applicant's Deposit Account no.: 19-2570. This has been authorized in the petition filed.

Accordingly, applicants petition to accept these papers for the instant application is granted.

DECISION

Applicants' request to withdraw the "NOTIFICATION OF ABANDONMENT" is **GRANTED** since the reply filed on 02 December 2004 was a timely response to the Notification of Missing Requirements mailed on 02 May 2002. The NOTIFICATION OF ABANDONMENT, mailed 29 January 2004 has been **VACATED**. The application will be given a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **02 December 2002.**

The petition under 37 CFR 1.182 is **GRANTED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal Office

14 JAN 20

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Docket Administrator
LUCENT TECHNOLOGIES
Room 3J-219
101 Crawfords Corner Rd.
Holmdel, NJ 07733-3030

In re Application of :
RUPAREL, Ketan :
U.S. Application No.: 10/069,685 :
PCT No.: PCT/EP00/05709 :
Int. Filing Date: 20 June 2000 : **DECISION**
Priority Date: 31 August 1999 :
Attorney's Docket No.: Ruparel - 1 :
For: METHOD AND APPARATUS FOR :
ESTABLISHING COMMUNICATION :

The decision is in response to the papers submitted on 27 August 2002.

BACKGROUND

On 20 May 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. Applicant was given two-months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 27 August 2002, applicant submitted the instant petition ("Pet.") which was accompanied by, *inter alia*, a one-month extension and fee; a document titled "Verified Statement of Facts Under 37 C.F.R. 1.47" signed by Valerie Barnes ("Decl."); and an unexecuted declaration.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventors cannot be reached after diligent effort, (3) a statement of the last known address of the inventors, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventors, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the

application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The appropriate petition and extension fees have been charged to Deposit Account No. 12-2325 as authorized. The last known address of the sole inventor, Ketan Ruparel is:

12 Winsdon Road
Luton, Bedfordshire LU1 5JT
United Kingdom

With regard to item (6), section 409.03(g) of the Manual of Patent Examining Procedure (MPEP) Eighth Edition, states that "[i]rreparable damage may be established by a showing (a statement) that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage." Counsel states that "such action is necessary to preserve the intellectual property rights of Lucent and to prevent abandonment of the subject application for failure to respond to the Notification of Missing Requirements Under 35 U.S.C. 371." Pet. at ¶ 4.

Therefore, items (1), (3) and (6) of 37 CFR 1.47(b) are satisfied.

But to meet item (2), petitioner claims that the sole inventor "cannot be reached." Pet. at ¶ 1. Section 409.03(d) of the MPEP discusses the requirements to show that an inventor cannot be reached and states, in part:

> 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.** (Emphasis added).

In this case, applicant has not provided all of the required documentary evidence such as a copy of the letter and other documents mailed 15 November 2001 to Mr. Ruperal at his home address, Decl. at ¶ 3, a copy of the E-mail sent from Lucent Technologies Human Resources department to Ms. Barnes, Id. at ¶ 4, and any evidence from internet searches. Id. at ¶ 5. For this reason, item (2) is not satisfied.

It is also noted that if the sole inventor is located, a complete copy of the application including specification, claims and drawings must be sent for signature, not just a declaration and assignment. *See* MPEP 409.03(d).

Regarding item (4), applicant provided an unsigned declaration. However, section 409.03(b) of the MPEP requires petitioner to provide a declaration signed by the 37 CFR 1.47(b) applicant. Hence, item (4) is also not satisfied.

Concerning item (5), section 409.03(f) of the MPEP states, in part:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that:
>
> (A) the invention has been assigned to the applicant, or
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

In the instant petition, it is not clear how petitioners are attempting to show that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the above-captioned application. The fact that Lucent Technologies was named as applicant in the underlying international application does not affect their status in the above-captioned national stage application. Petitioner must show their proprietary interest in this application by using one of the three ways listed above. Consequently, item (5) is not satisfied.

Since petitioner failed to meet item(s) (2), (4) and (5) of 37 CFR 1.47(b), it is not appropriate to accept this application under 37 CFR 1.47(b) at this time.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the

contents of the letter marked to the attention of the PCT Legal Office.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

07 MAY 2003
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Docket Administrator
LUCENT TECHNOLOGIES
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101 Crawfords Corner Rd.
Holmdel, NJ 07733-3030

In re Application of :
RUPAREL, Ketan :
U.S. Application No.: 10/069,685 :
PCT No.: PCT/EP00/05709 :
Int. Filing Date: 20 June 2000 :
Priority Date: 31 August 1999 :
Attorney's Docket No.: Ruparel - 1 :
For: METHOD AND APPARATUS FOR :
ESTABLISHING COMMUNICATION :

DECISION ON RENEWED PETITION

This decision is in response to the papers titled "Renewed Petition Under 37 C.F.R. 147(b) When All the Inventors Cannot Be Reached" submitted on 05 March 2003.

BACKGROUND

On 14 January 2003, a decision dismissing applicant's petition under 37 CFR 1.47(b) was mailed. Applicant failed to meet all of the requirements of items (2), (4) and (5) of 37 CFR 1.47(b).

On 05 March 2003, petitioner submitted the instant renewed petition which was accompanied by, *inter alia*, a legal memorandum; a declaration signed by the 37 CFR 1.47(b) applicant, a copy of a letter sent to Mr. Ruperal dated 15 November 2001, and a copy of an E-mail sent from Lucent to Valerie Barnes.

DISCUSSION

The 37 CFR 1.47(b) applicant failed to satisfy items (2), (4) and (5) in the initial petition. Item (2) was not satisfied because the 37 CFR 1.47(b) applicant did not provide the required documentary evidence to show that a diligent effort was made to locate Mr. Ruperal.

In the renewed petition, the 37 CFR 1.47(b) applicant has submitted a copy of a letter dated 15 November 2001 sent to Mr. Ruperal at his last known address. Moreover, copies of E-mails sent to to Ms. Barnes from the Human Resources department of Lucent Technologies. This evidence satisfies the remaining requirements not addressed in the initial petition for item (2) of 37 CFR 1.47(a).

Regarding item (4), applicant included a declaration signed by D.L. Padilla, President, Intellectual Property Business Lucent Technologies on behalf of Mr. Ruperal. The name, residence, post office address and citizenship of the sole inventor are listed on the declaration. This declaration satisfies section 409.03(b) of the MPEP and 37 CFR 1.497(a) and (b). Thus item (4) is satisfied.

Concerning item (5), the 37 CFR 1.47(b) applicant has provided a legal memorandum by a British Patent Attorney in the renewed petition to demonstrate sufficient proprietary interest in the above-captioned application. Section 409.03(f) Of the MPEP also discusses this and states:

> A proprietary interest obtained . . . may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute . . . or a court decision . . . relied on to demonstrate a proprietary interest should be made of record.

This document meets all of the requirements of section 409.03(f) of the MPEP. Therefore, item (5) of 37 CFR 1.47(b) is satisfied.

Accordingly, the 37 CFR 1.47(b) applicant has now met all of the requirements of 37 CFR 1.47(b).

CONCLUSION

Applicant's renewed petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventor at the last known address of record as set forth in the papers filed 27 August 2002 and a notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 20 June 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 05 March 2003.

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

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LUCENT TECHNOLOGIES, INC.
ROOM 2F-192
600-700 MOUNTAIN AVENUE
MURRAY HILL, NJ 07974-0636

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MAY 29 2008

OFFICE OF PETITIONS

In re Application of :
Ketan Ruparel :
Application No. 10/069,685 : ON PETITION
Filed: March 5, 2003 :
Attorney Docket No. Ruparel - 1 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 29, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed July 17, 2006. A Notice of Abandonment was mailed on January 24, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Change of Correspondence Address filed on October 29, 2007 has been accepted and made of record.

This application file is being referred to Technology Center Art Unit 2141 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Docket Administrator - Room 3D-201E
Alcatel-Lucent USA Inc.
600-700 Mountain Avenue
Murray Hill, NJ 07974

Mail Date: 05/20/2010

Applicant	: Ketan Ruparel	: DECISION ON REQUEST FOR
Patent Number	: 7620722	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/069,685	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/05/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1678** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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CARRIER BLACKMAN AND ASSOCIATES
24101 NOVI ROAD
SUITE 100
NOVI, MI 48375

COPY MAILED

JUN 13 2007

OFFICE OF PETITIONS

In re Application of :
Akio Matsumoto et al :
Application No. 10/069,702 : ON PETITION
Filed: June 4, 2002 :
Attorney Docket No. KNI-163-A

This is a decision on the petition, filed June 11, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 1731 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of :
Akio Matsumoto et al :
Application No. 10/069,702 : ON PETITION
Filed: June 4, 2002 :
Attorney Docket No. KNI-163-A

This is a decision on the petition, filed June 11, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 1731 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/4/07

Paper No.: —

TO SPE OF : ART UNIT 1721

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/069717 Patent No: 7,358,315 B1

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: Feb 28, 2002 is the correct date on which the requirements of 35 USC 371 and 37 CFR 1.495 were met in the application

TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

SPE

1771
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 06-06

Paper No: __

PHILIPS ELECTRONICS
NORTH AMERICA CORPORATION
INTELLECTUAL PROPERTY & STANDARDS
1109 MCKAY DRIVE, M/S-41SJ
SAN JOSE CA 95131

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JUN 12 2006

OFFICE OF PETITIONS

In re Application of :
Legrand, et al. :
Application No. 10/069,741 : ON PETITION
Filed: 26 February, 2002 :
Attorney Docket No. FR000067 :

This is a decision on a petition filed on 29 November, 2005, under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record indicates:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 19 April, 2005, with reply due absent extension of time on or before 19 July, 2005–it appears that Petitioner changed address, but did not Notice the Office in advance, and the mailing was returned undelivered;

- the application went abandoned by operation of law after midnight 21 July, 2005;

- Petitioner filed a Notice of Change of Address on 13 October, 2005–**a notation in the file indicates, however, that the attorney signing the Notice was/is not on the Power of Attorney of record**;

- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;

- on 29 November, 2005, Petitioner filed the instant petition, fee, reply in the form of an amendment, and made a statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

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

---

[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]))

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, 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

[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.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First-Named Inventor: LEGRAND	Docket No.: FR 000067
Application No.: 10/069,741 Conf.:	Art Unit: 2631
Date Filed: 02/26/2002	Examiner: Aghdam, F.

Title: DETECTION AND CORRECTION OF PHASE JUMPS IN A PHASE SEQUENCE

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

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

RECEIVED
CENTRAL FAX CENTER
NOV 29 2005

Sir:

The above-identified application became abandoned for failure to file a timely and proper reply to a USPTO notice or action dated 04/19/2005.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires: (1) Petition fee; (2) Reply and/or issue fee; (3) Terminal disclaimer w/disclaimer fee (IF filed before 6/8/1995); and (4) Statement that the entire delay was unintentional.

1. PETITION FEE UNDER 37 CFR §1.17(m):

☒ Please charge the petition fee to Deposit Account 14-1270.

2. REPLY AND/OR FEE:

☒ The reply and/or fee to the above-noted Office Action in the form of Office Action Response and Amendment
- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

☐ The issue fee
- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

3. TERMINAL DISCLAIMER WITH DISCLAIMER FEE:

☐ Since this application was filed after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer and the required disclaimer fee disclaiming the required period of time is enclosed herewith.

4. STATEMENT:

☒ The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

PAGE 2/3 * RCVD AT 11/29/2005 7:15:24 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/30 * DNIS:2738300 * CSID:4084749080 * DURATION (mm-ss):05-08

Please charge any fees which may be required, or credit any overpayment to Deposit Account No. 14-1270.

Date: 28-NOV-2005

Respectfully submitted,

By Peter Zawilski.

Peter Zawilski, Reg. No. 43,305
(408) 474-9063
Philips Electronics North America Corp.
1109 McKay Drive MS41-SJ
San Jose, California 95131

Enclosures:
- ☒ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING or TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to "Mail Stop Petitions, Commissioner for Patents, Arlington, VA 22313-1450," or being facsimile transmitted to the USPTO at (571) 273-8300, on the date indicated below.

(Date) 11/29/05 (Signature) _____

(Name) Daniel L. Michalek

Document2 (rev. 3/03)

PAGE 3/13 * RCVD AT 11/29/2005 7:15:24 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/30 * DNIS:2738300 * CSID:4084749080 * DURATION (mm-ss):05-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First-Named Inventor: LEGRAND	Docket No.: FR 000067
Application No.: 10/069,741 Conf.:	Art Unit: 2631
Date Filed: 02/26/2002	Examiner: Aghdam, F.

Title: DETECTION AND CORRECTION OF PHASE JUMPS IN A PHASE SEQUENCE

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

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

RECEIVED
CENTRAL FAX CENTER
NOV 29 2005

Sir:

The above-identified application became abandoned for failure to file a timely and proper reply to a USPTO notice or action dated 04/19/2005.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires: (1) Petition fee; (2) Reply and/or issue fee; (3) Terminal disclaimer w/disclaimer fee (IF filed before 6/8/1995); and (4) Statement that the entire delay was unintentional.

1. PETITION FEE UNDER 37 CFR §1.17(m):

☒ Please charge the petition fee to Deposit Account 14-1270.

2. REPLY AND/OR FEE:

☒ The reply and/or fee to the above-noted Office Action in the form of Office Action Response and Amendment
- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

☐ The issue fee
- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

3. TERMINAL DISCLAIMER WITH DISCLAIMER FEE:

☐ Since this application was filed after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer and the required disclaimer fee disclaiming the required period of time is enclosed herewith.

4. STATEMENT:

☒ The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

PAGE 2/13 * RCVD AT 11/29/2005 7:15:24 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/30 * DNIS:2738300 * CSID:4084749080 * DURATION (mm-ss):05-08

Please charge any fees which may be required, or credit any overpayment to Deposit Account No. 14-1270.

Date: 28-NOV-2005

Respectfully submitted,

By Peter Zawilski.

Peter Zawilski, Reg. No. 43,305
(408) 474-9063
Philips Electronics North America Corp.
1109 McKay Drive MS41-SJ
San Jose, California 95131

Enclosures:
- ☒ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING or TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to "Mail Stop Petitions, Commissioner for Patents, Arlington, VA 22313-1450," or being facsimile transmitted to the USPTO at (571) 273-8300, on the date indicated below.

(Date) 11/29/05 (Signature) _____
(Name) Daniel L. Michalik

Document2 (rev. 3/03)

PAGE 3/13 * RCVD AT 11/29/2005 7:15:24 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/30 * DNIS:2738300 * CSID:4084749080 * DURATION (mm-ss):03-03

MAY 30 2002

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mark B. Wilson
FULBRIGHT & JAWORSKI
600 Congress Avenue, Suite 2400
Austin, Texas

In re Application of:
COPLAND, John, A., III, et al.
U.S. Application No.: 10/069,744
PCT No.: PCT/US99/25433
International Filing Date: 29 October 1999
Priority Date: 29 October 1998
Attorney's Docket No.: UTSG:240US
For: USE OF THIAZOLIDINEDIONES ALONE OR IN CONJUNCTION WITH OTHER AGENTS ... OR LACTATION

DECISION ON PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 27 February 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted the small entity basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements requiring submission of an executed declaration in compliance with 37 CFR 1.497.

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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

NOV 14 2002

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

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

#8

In re Application of :
Yoshimitsu Iida et al :
Serial No.: 10/069,755 : PETITION DECISION
Filed: February 28, 2002 :
Attorney Docket No.: IIDA=20 :

This is in response to applicants' petition under 37 CFR 1.181, filed October 22, 2002, seeking remailing of an incomplete Office action.

BACKGROUND

A review of the file history shows that this application was filed as the National Phase application of PCT/JP00/05922 and was accepted on February 28, 2002. The examiner assigned to the application mailed a first Office action to applicants in which all of the claims were rejected for the reasons set forth in the IPER and then set forth several specific rejections under 35 U.S.C. 102(b) and 35 U.S.C. 103(a) applying the five references alone and in combination which were discussed in the IPER. The examiner did not provide a separate listing of the references on PTO Form 892 since they were of record in the PCT application. The examiner also did not provide English language equivalents or translations of any of the references as is customary.

DISCUSSION

It is Office policy that all references relied upon in making a rejection of a claim(s) shall be listed on PTO Form 892 unless cited by applicant on Form 1449 or its equivalent. This was not done as the examiner presumed that applicants had received copies of the references with the International Search Report and had them available to review the examiner's Office action. However, it is recognized that applicants' domestic representatives likely did not have the references applied nor English language equivalents thereof. It is also general Office policy to provide English language equivalents of foreign language references where available or actual translations of the reference is readily available. English language abstracts are provided when not readily available and efforts are made to obtain a translation from a translation service and a copy then provided applicant. Although copies of abstracts of the foreign language documents are found in the file it is unclear whether applicants received copies of them.

DECISION

Applicants' petition is **GRANTED**.

Due to the deficiencies of the last Office action, it is vacated without prejudice to the reinstatement of any proper rejections contained therein.

As a new examiner has been assigned to this application the new examiner is directed to promptly consider the references of record, provide a complete Office action and copies of all references relied on to applicants with English language equivalents or translations of any foreign language references, if available, or English language abstracts, if not. Complete translations of any foreign language references must be provided to applicants by the examiner when received.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703)308-3824 or by facsimile transmission at (703) 305-7230.

John Doll
Director, Technology Center 1600

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Paper No.

John F Hayden
Fish & Richardson
1425 K Street N W 11Th Floor
Washington DC 20005-3500

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JAN 31 2007

OFFICE OF PETITIONS

In re Application of	:	
Schwarz et al.	:	
Application No. 10/069,760	:	DECISION ON
Filed: September 23, 2002	:	PETITION
Atty Docket No. 08215-517US1	:	

This is a decision on the PETITION UNDER 37 CFR § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT filed September 28, 2004 (and resubmitted February 9, 2005). This decision is made in light of the supplement to petition expressly requested by the undersigned and filed on October 31, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed December 30, 2003. This Notice set a three month shortened statutory period for reply, with extensions of time obtainable under 37 CFR §1.136(a). No reply having been received and no extensions obtained, the above-identified application became abandoned effective March 31, 2004. A courtesy Notice of Abandonment was mailed on July 28, 2004.

In response, applicants filed the instant petitions, asserting that the Office action was never received and requesting that the holding of abandonment be withdrawn. The petitions include a statement by the practitioner attesting to the non-receipt of the Office action. The statement is supported with the submission of a copy of the relevant docket records.

A review of the application file reveals no irregularities in the mailing of the Office action mailed December 30, 2003. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. 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.

Petitioner has supported his claim of non-receipt with such evidence.

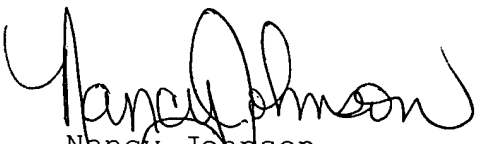
In view thereof, the notice of abandonment mailed July 28, 2004 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2833 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the final Office action mailed December 30, 2003 and for restarting of the period for reply.

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OCT 21 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Robert E. Bushnell
1522 K Street N.W. , Suite 300
Washington, D.C. 20005

In re Application of :
Moon-Key Han :
Application No. 10/069,762 :
Filed: February 28, 2002 :
For: CONNECTED SOLID SOAPS WITH KEEPING UNIT

DECISION ON PETITION UNDER 37 CFR 1.181

This is in response to applicant's Petition Under 37 CFR 1.181 filed August 27, 2004. The petition is directed to the examiner's failure to properly respond to an Information Disclosure Statement (IDS) filed on February 28, 2002. The petition requests five points of relief in view of the examiner's failure to properly respond to the IDS.

The petition is GRANTED to the extent indicated below.

A review of the file shows the following sequence of prosecution in the matter of the IDS:

An IDS was filed by applicant on February 28, 2002.

A Miscellaneous Letter was mailed August 11, 2003 indicating the IDS would be considered and the 1449 would be initialed and included in the next Office action.

On December 17, 2003 a Requirement for Election of Species was mailed . The IDS was not treated in this paper. Normally a prior art statement would not be treated in a written restriction requirement since the claims would not be examined at this time.

On April 6, 2004 a Notice of Non-responsive Amendment was mailed. The IDS was not considered. An IDS would not be considered in an amendment was non-responsive as there would be no examination of the claims at this time.

An Office action was mailed on August 23, 2004. The action indicated the IDS "...submitted July 9, 2003..." was considered although no 1449 was included in the action. It is noted the reference date of the IDS was erroneously listed as July 9, 2003.

As noted above, the petition requests five points of relief.

(A) The petition requests strike out of the portion of the August 23, 2004 Office action referring to the IDS "submitted on July 9, 2003". The Office does not strike out portions of previous Office actions. Any error in an Office action can be corrected in a subsequent action. This request is denied.

(B) The petition requests a supplemental final action including a corrected statement about the IDS. As noted above, no portion of the action is to be stricken, thus there is no reason for a supplemental action on the merits.

(C) The petition requests a completed copy of the 1449. The examiner will send out a miscellaneous Office action with a properly treated 1449. Since the examiner had indicated in her action that the IDS had been considered by her, it is assumed there would be no change in her position concerning any art in the IDS.

(D) The petition requests a re-start of the period for response, it is assumed, of the August 23, 2004 Office action. This is denied. There was no error indicated in the rejections set forth in that action. Failure to provide a signed 1449 would not keep applicant from responding to the points raised by the examiner in her action.

(E) The petition requests that the Office " Grant such other and further relief as justice may require". Other than providing applicant with a signed 1449, no other relief is deemed necessary.

The application is being forwarded to the examiner of record to prepare a proper response to the IDS filed February 28, 2002 including a copy of the 1449.

John J. Love, Director
Patent Technology Center 3600
Telephone: (703) 308-1020

Cdf/10/13/03 dd

08 JUL 2002

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#4

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WASHINGTON, D.C. 20231
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Robert W. Becker & Associates
11896 N. Highway 14, Suite B
Tijeras, NM 87059

In re Application of
DRECHSLER, Martin et al.
Application No.: 10/069,826
PCT Application No.: PCT/EP00/03666
International Filing Date: 22 April 2000
Priority Date: 06 May 1999
Attorney Docket No.: AZ.2968
For: UV-SUPPORTED ACTIVATION OF DOPING AGENT IN COMPOUND SEMICONDUCTORS VIA RTP SYSTEMS

DECISION ON

PETITION

UNDER 37 CFR 1.181

This decision is in response to applicants' "Letter," filed 22 February 2002. It has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 22 April 2000, applicants filed international application PCT/EP00/03666 which claimed priority to an application filed on 06 May 1999. A copy of the application was communicated to the United States Patent and Trademark Office from the International Bureau on 16 November 2000. Applicants elected the United States in a demand filed on 21 October 2000. The thirty month time period for entering the national stage expired at midnight on 06 November 2001.

On 22 February 2002, applicants filed the instant petition accompanied by a transmittal letter for entry into the national stage in the United States, a preliminary amendment, a copy of an Express Mail mailing label and a translation of the international application.

DISCUSSION

A petition under 37 CFR 1.181 to accord a receipt date to paperwork that applicant claims was lost by the Office must be accompanied by (1) a true copy of what applicant claims was originally submitted and (2) proof that the paperwork was submitted on a particular date.

Item (1) has been met. Applicants submitted a "further copy" of the application papers claimed to have been submitted on 05 November 2001.

Item (2) has not been met. Applicants have not presented any evidence that the application papers for the national stage of PCT/EP00/03666 were included in the package identified by Express Mail mailing label number EL436586994US. While applicants indicate that

they did not receive the post card receipt for the application, they must still provide evidence of the package's contents. Additionally, applicants cannot rely on the Express Mail mailing label to establish receipt of the application papers for PCT/EP00/03666, as 37 CFR 1.10(e) applies only when the communication is lost *in toto* and applicants have indicated that the another application shipped under Express Mail mailing label number EL436586994US was received and processed. MPEP §513.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

The application remains **ABANDONED**.

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 Office of PCT Legal Administration.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
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Robert W. Becker & Associates
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In re Application of
DRECHSLER, Martin et al.
Application No.: 10/069,826
PCT Application No.: PCT/EP00/03666
International Filing Date: 22 April 2000
Priority Date: 06 May 1999
Attorney Docket No.: AZ.2968
For: UV-SUPPORTED ACTIVATION OF DOPING AGENT IN COMPOUND SEMICONDUCTORS VIA RTP SYSTEMS

DECISION ON

PETITION

UNDER 37 CFR 1.181

This decision is in response to applicants' "Letter In Response To Decision On Petition Under 37 CFR 1.181 of July 8, 2002," filed with the United States Patent and Trademark Office on 23 August 2002.

BACKGROUND

On 22 April 2000, applicants filed international application PCT/EP00/03666 which claimed priority to an application filed on 06 May 1999. A copy of the application was communicated to the United States Patent and Trademark Office from the International Bureau on 16 November 2000. Applicants elected the United States in a demand filed on 21 October 2000. The thirty month time period for entering the national stage expired at midnight on 06 November 2001.

On 22 February 2002, applicants filed the instant petition accompanied by a transmittal letter for entry into the national stage in the United States, a preliminary amendment, a copy of an Express Mail mailing label and a translation of the international application.

On 08 July 2002, the Office mailed Decision On Petition Under 37 CFR 1.181 dismissing the petition without prejudice.

On 23 August 2002, applicants submitted the instant renewed petition.

DISCUSSION

A petition under 37 CFR 1.181 to accord a receipt date to paperwork that applicant claims was lost by the Office must be accompanied by (1) a true copy of what applicant claims was originally submitted and (2) proof that the paperwork was submitted on a particular date.

Item (1) was previously met.

Item (2) has been met. Applicants submitted a copy of what they claim was submitted on 05 November 2001. The total weight is approximately the weight listed on the Express Mail mailing label numbered EL436586994US, 1 lb 2.6 oz. The weight of application number 10/011,874 alone was approximately 0.8 lbs. This evidence indicates that there was additional material in the 05 November 2001 submission.

Taken together, these indications are adequate evidence that the transmittal letter for entry into the national stage in the United States accompanied by the basic national fee was submitted on 05 November 2001.

Applicants additionally seek a filing receipt for the application. Filing Receipts are issued when applicants complete the requirements of 35 U.S.C. 371. Applicants have not yet supplied an oath or declaration of the inventors.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.181 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors and the surcharge for late furnishing of the oath or declaration are required.

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PCT Legal Administration

Erin M. Pender
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BRINKS HOFER GILSON & LIONE
ONE INDIANA SQUARE
SUITE 1600
INDIANAPOLIS IN 46204-2033

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OFFICE OF PETITIONS

In re Application of :
Sato et al. :
Application No. 10/069,831 : LETTER REGARDING
Filed: February 26, 2002 : PATENT TERM ADJUSTMENT
Attorney Docket No. 9683/104 :

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" filed September 14, 2006. Pursuant to their duty of good faith and candor to the Office, applicants disclose that the patent term adjustment of 741 days indicated on the determination of patent term adjustment may extend the term of the patent by too many days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is five hundred thirty-seven **(537)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 28, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 575 days (not 741 days). Applicants disclose that further periods of reduction should been entered pursuant to 37 CFR 1.704(c)(8).

Applicants are correct. 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:
>
> > (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

In this instance, as agreed by applicants, applicants filed a request to reconsider a previously filed Information Disclosure Statement on May 23, 2005, then filed an Information Disclosure Statement (IDS) on September 2, 2005 and then filed a response to the non-final rejection on October 10, 2005.

A review of the record confirms that a period of reduction of 102 days associated with the filing of the IDS on September 2, 2005. However, pursuant to 1.704(c)(8), an additional period of reduction of 38 days should have been entered for the filing of the response on October 10, 2005 (e.g., for the period September 3, 2005 to October 10, 2005).

In view thereof, it is concluded that the determination of PTA at the time of the mailing of the notice of allowance is FIVE HUNDRED THIRTY-SEVEN (537) days.

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 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Office of Patent Publication for issuance of the application. The patent term adjustment indicated on the patent (as shown on the

Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PTA Calculations for Application: 10/069831			
Application Filing Date:	02/26/2002	PTO Delay (PTO):	741
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	166
Post-Issue Petitions:	0	Total PTA (days):	537
PTO Delay Adjustment:	-38		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
56	02/13/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		38	
48	07/28/2006	MAIL NOTICE OF ALLOWANCE			
47	07/28/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
46	07/28/2006	MAIL EXAMINER'S AMENDMENT			
45	07/25/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
44	07/25/2006	CASE DOCKETED TO EXAMINER IN GAU			
43	07/24/2006	EXAMINER'S AMENDMENT COMMUNICATION			
42	07/24/2006	NOTICE OF ALLOWABILITY			
41	07/07/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
40	06/30/2006	DATE FORWARDED TO EXAMINER			
39	05/30/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
38	06/30/2006	DATE FORWARDED TO EXAMINER			
37	05/30/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		64	29
36	06/30/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
35	05/30/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	05/30/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
33	03/21/2006	MAIL ADVISORY ACTION (PTOL - 303)			
32	03/16/2006	ADVISORY ACTION (PTOL-303)			
31	03/02/2006	DATE FORWARDED TO EXAMINER			
30	02/27/2006	AMENDMENT AFTER FINAL REJECTION			
29	12/27/2005	MAIL FINAL REJECTION (PTOL - 326)			

28	12/22/2005	FINAL REJECTION			
27	09/02/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	10/20/2005	DATE FORWARDED TO EXAMINER			
25	10/10/2005	RESPONSE AFTER NON-FINAL ACTION			
24	10/10/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	09/02/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		102	19
22	09/09/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
21	09/06/2005	MISCELLANEOUS ACTION WITH SSP			
20	07/12/2005	DATE FORWARDED TO EXAMINER			
19	05/23/2005	RESPONSE AFTER NON-FINAL ACTION			
18	05/06/2005	MAIL NON-FINAL REJECTION	741		-1
17	05/03/2005	NON-FINAL REJECTION			
16	04/11/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	03/26/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	07/12/2004	REFERENCE CAPTURE ON IDS			
13	02/11/2005	REFERENCE CAPTURE ON IDS			
12	02/11/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	02/10/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	12/17/2004	PRELIMINARY AMENDMENT			
9	12/17/2004	WORKFLOW INCOMING AMENDMENT IFW			
8	07/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	03/08/2003	CASE DOCKETED TO EXAMINER IN GAU			
6	05/30/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	08/29/2002	TRANSFER INQUIRY TO GAU			
4	05/14/2002	APPLICATION DISPATCHED FROM OIPE			
3	05/13/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	05/03/2002	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	02/26/2002	INITIAL EXAM TEAM NN			

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Drummond & Duckworth
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Newport Beach, CA 92660

In re Application of	:	
Burkett	:	
Application No. 10/069,836	:	DECISION ON
PCT No.: PCT/US00/20017	:	
Int. Filing Date: 20 July 2000	:	PETITION UNDER
Priority Date: 20 July 2000	:	
Atty. Docket No.: 344-P-30-USA	:	37 CFR 1.137(b)
For: Improved Diagnostic Method For	:	
Detecting Dysplastic Epithelial Tis..	:	

This is in response to the petition filed on 04 November 2002.

BACKGROUND

This international application was filed on 20 July 2000, and did not claim an earlier priority date. No Demand electing the United States was filed before the expiration of 19 months from the priority date. Accordingly, the 20 month time period to file the basic national fee in the U.S. expired as of midnight on 20 March 2002.

On 26 February 2002, applicants filed *inter alia* a Transmittal Letter and fee calculation sheet, which showed a fee amount due of $585.00, made up of a basic national fee of $520.00 and a $65.00 surcharge under 37 CFR 1.492(e). No payment appears to have accompanied this Transmittal Letter.

On 08 May 2002, a Notice of Insufficient Basic National Fee (Form PCT/DO/EO/904) was mailed to applicant, indicating that the appropriate large entity basic national fee amount due was $740.00, under 37 CFR 1.492(a)(2). The application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

On 10 May 2002, applicant filed a Transmittal Letter accompanied by the instant Declaration of the inventor and a check for $585.00.

On 27 June 2002, applicant filed a instant Transmittal Letter and papers pertaining to the payment of "Balance of Basic National Fee $155.00."

On 01 October 2002, a Communication was mailed to applicant, indicating that the international application had become abandoned with respect to the United States as of midnight on 20 March 2002 for failure to timely pay the entire required basic national fee.

Applicant filed the instant petition on 04 November 2002.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the required reply in the form of payment of the full basic national fee was filed on 27 June 2002.

Regarding requirement (2), the petition fee accompanied the petition.

Regarding requirement (3), the petition includes a statement that "the entire delay in payment of the entire Basic National Fee 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.

Applicants paid the basic national fee in the amount of $740.00, the surcharge under 37 CFR 1.492(e) in the amount of $130.00, and the petition fee in the amount of $1240.00. However, in view of the assertion of small entity status contained in the Transmittal Letter filed on 26 February 2002, applicants were entitled to pay these amounts, reduced by one half. Accordingly, a refund in the amount of $1055.00 will be issued to counsel.

DECISION

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

This application is being forwarded to the National Stage Processing Branch for further processing. The date of this application under 35 U.S.C. 371(c) (1), (2) and (4) is **04 November 2002**.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
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Mailed: 3/8/06

In re application of	:	
Mikumo et al.	:	DECISION ON
Serial No. 10/069,848	:	PETITION
Filed: February 28, 2002	:	
For: INDICATOR FOR PLASMA STERILIZATION		

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed November 3, 2005.

A Request for Continued Examination was filed in the instant application on May 11, 2005. An amendment to the claims was also filed at the same time. Specifically, an amendment was made to independent claim 17 and newly presented claim 40 was added. The examiner prepared a first action final which was mailed on July 19, 2005. Applicants requested withdrawal of the finality of the office action and further requested that a new office action be prepared because the examiner did not address newly added claim 40. The examiner prepared a new office action addressing newly added claim 40, which was mailed on November 3, 2005. The examiner also made this office action final. Applicants requested that the finality be withdrawn in a telephone conference with the examiner, however agreement was not reached.

On December 7, 2005, the instant petition was timely filed to formally request the withdrawal of the finality of the November 3, 2005 office action

DECISION

As set forth in the petition, the standard for making an Office action final is set forth in section 706.07(b) of the MPEP which states:

> 706.07(b) Final Rejection, When Proper on First Action
> The claims of a new application may be finally rejected in the first Office action in those situations where (A) the new application is a continuing application of, or a substitute for, an earlier application, and (B) all claims of the new application (1) are drawn to the same invention claimed in the earlier application, and (2) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application.

In the instant application, the examiner stated in the final office action that all of the claims are drawn to the same invention claimed in the earlier application. This is clearly in error. The amendment to independent claim 17 and newly presented claim 40 are directed to subject matter which was not previously claimed. Therefore, the claims are not drawn to the same invention

that was previously claimed. Accordingly, the finality of the office action was improper and the petition is **GRANTED**.

It is also pointed out that while the finality of the office action has been withdrawn, the rejection still stands. Applicant's time for response to the November 3, 2005 office action continues to run. Extensions of time may be obtained to file any amendments. Such amendments will be treated as an amendment under 37 CFR 1.111 or 1.112 and will be entered.

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

Rocco S Barrese
Dilworth & Barrese
333 Earle Ovington Boulevard
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08 JUL 2002

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IP DEPARTMENT

Steven C Bauman
Loctite Corporation
1001 Trout Brook Crossing
Rocky Hill CT 06067

In re Application of
RITTER et al.
Application No.: 10/069,879
PCT No.: PCT/EP00/00536
Int. Filing Date: 25 January 2000
Priority Date: 25 January 1999
Attorney Docket No.: ICC-192/PCT/US
For: PROCESS FOR ATTACHING THE OIL SUMP TO AN ENGINE BLOCK OF AN INTERNAL COMBUSTION VEHICLE

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

This decision is in response to the "PETITION FOR REVIVAL OF APPLICATION ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)" submitted by applicants on 01 March 2002.

BACKGROUND

On 25 January 2000, applicants filed international application PCT/EP00/00536, which claimed a priority date of 25 January 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 27 July 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 11 August 2000, within 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 25 July 2001.

On 01 March 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, an authorization to charge the U.S. Basic National Fee to Deposit Account No. 12-2135, an English translation of the international application, and a declaration of the inventors.

On 21 March 2002, applicants also filed the instant "PETITION FOR REVIVAL OF APPLICATION ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)".

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(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 was unintentional.

As to item (1), the authorization to charge the U.S. Basic National Fee was not effective as payment because Deposit Account No. 12-2135 had insufficient funds to cover this fee at the time the payment was attempted to be processed (07 March 2002). 37 CFR 1.25(a) states that an amount sufficient to cover all fees requested must always be on deposit and that charges to accounts with insufficient funds will not be accepted. Thus, item (1) has not been met.

As to item (2), it has not been met either since the authorization to charge the petition fee to Deposit Account No. 12-2135 was not effective.

With regard to item (3), a grantable petition has not yet been filed.

The declaration filed 01 March 2002 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED** for the reasons set forth above.

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

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

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

30 SEP 2002

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Steven C Bauman
Loctite Corporation
1001 Trout Brook Crossing
Rocky Hill CT 06067

In re Application of	:	
RITTER et al.	:	
Application No.: 10/069,879	:	DECISION ON
PCT No.: PCT/EP00/00536	:	
Int. Filing Date: 25 January 2000	:	PETITION UNDER
Priority Date: 25 January 1999	:	
Attorney Docket No.: ICC-192/PCT/US	:	37 CFR 1.137(b)
For: PROCESS FOR ATTACHING THE OIL SUMP TO AN ENGINE BLOCK OF AN INTERNAL COMBUSTION VEHICLE	:	

This decision is in response to the "RESPONSE TO DECISION ON PETITION UNDER 37 C.F.R. 1.137(b)" submitted by applicants on 25 July 2002.

BACKGROUND

On 25 January 2000, applicants filed international application PCT/EP00/00536, which claimed a priority date of 25 January 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 27 July 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 11 August 2000, within 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 25 July 2001.

On 01 March 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, an authorization to charge the U.S. Basic National Fee to Deposit Account No. 12-2135, an English translation of the international application, and a declaration of the inventors.

On 01 March 2002, applicants also filed a "PETITION FOR REVIVAL OF APPLICATION ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)".

On 08 July 2002, the USPTO mailed a decision dismissing applicants' petition under 37 CFR 1.137(b) because the required reply (the U.S. basic national fee) and the petition fee had not been paid. Specifically, it was noted that the authorization to charge the U.S. Basic National Fee and the authorization to charge the petition fee were not effective as payment because Deposit

Account No. 12-2135 had insufficient funds to cover this fee at the time the payment was attempted to be processed (07 March 2002).

On 25 July 2002, applicant filed the instant "RESPONSE TO DECISION ON PETITION UNDER 37 C.F.R. 1.137(b)".

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(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 was unintentional.

As to item (1), the U.S. basic national fee was paid on 25 July 2002. Applicant's response filed 25 July 2002 is construed as a renewed authorization to charge Deposit Account No. 12-2135 for the U.S. basis national fee. *If this interpretation is incorrect, applicant must notify the Office of PCT Legal Affairs immediately.*

As to item (2), the petition fee was paid on 25 July 2002. Applicant's response filed 25 July 2002 is construed as a renewed authorization to charge Deposit Account No. 12-2135 for the petition fee. *If this interpretation is incorrect, applicant must notify the Office of PCT Legal Affairs immediately.*

With regard to item (3), applicant has provided the required statement.

The declaration filed 01 March 2002 is in compliance with 37 CFR 1.497(a)-(b). The surcharge under 37 CFR 1.492(e) of $130 for filing the declaration later than thirty months from the priority date and the processing fee under 37 CFR 1.492(f) for filing an English translation later than thirty months from the priority date have been charged to Deposit Account 12-2135.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

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

This application is being forwarded to the National Stage Processing Branch of the Office

of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. 371(c) date of **25 July 2002**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

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Melanie L. McCollum
Oliff & Berridge
P.O. Box 19928
Alexandria, VA 22320

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OFFICE OF PETITIONS

In re Application of :
Francois Mallet et al. :
Application No. 10/069,883 : DECISION ON PETITION
Filed: May 1, 2002 : TO WITHDRAW
Attorney Docket No. 112062 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 11, 006.

The request is **APPROVED**.

A review of the file record indicates that Melanie L. McCollum: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Melanie L. McCollum has/have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The correspondence address of record remains unchanged.

The current attorneys/agents remains of record.

There is an outstanding Office action mailed June 7, 2006 that requires a reply from the current attorneys/agents.

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

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

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

In re Patent No. 6,872,689 :
Issue Date: March 29, 2005 :
Application No. 10/069,911 : ON PETITION
Filed: July 8, 2002 :
Attorney Docket No. 22770-003US1 :

This is a decision on the petition under 37 CFR 1.378(c), filed June 9, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on March 30, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

Telephone inquiries concerning this decision should be directed to Olisa Anwah at (571) 272-6051 or in his absence to the undersigned at (571) 272-7099.

The patent file is being forwarded to Files Repository.

David Bucci
Petitions Examiner
Office of Petitions

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Dickstein Shapiro Morin & Oshinsky
1177 Avenue of the Americas
41st Floor
New York, NY 10036-2714

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OFFICE OF PETITIONS

In re Patent No. 6,828,412 :
Issue Date: December 7, 2004 :
Application No. 10/069,929 : ON PETITION
Filed: July 21, 1999 :
Attorney Docket No. A0015.0001 :

This is a decision on the petition filed March 15, 2005, which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

This matter 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) 272-3223. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

22 DEC 2003

#7

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Pitney, Hardin, Kipp & Szuch LLP
685 Third Avenue
New York, New York 10017-4024

In re Application of	:	DECISION ON
SAKUSHIMA et al	:	
Application No.: 10/069,931	:	
PCT No.: PCT/JP01/05655	:	
Int. Filing Date: 29 June 2001	:	PETITION UNDER
Priority Date: 30 June 2000	:	
Attorney's Docket No.: 4777/7	:	
For: USER INFORMATION MANAGEMENT	:	
APPARATUS	:	37 CFR 1.137(b)

This decision is in response to applicants' "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 05 March 2003.

BACKGROUND

On 29 June 2001, this international application was filed, claiming an earliest priority date of 30 June 2000.

On 28 February 2002, applicants filed the Transmittal letter for entry into the national stage in the United States, which was accompanied by, basic national fee. No executed declaration or oath was filed at such time.

On 12 June 2002, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the oath or declaration complying with 37 CFR 1.497(a) and (b) must be furnished within the time period set forth. The notification set a two months time limit or 32 months from the priority date for the application, whichever is later to respond.

On 05 February 2002, the USPTO mailed applicant Notification of Abandonment (Form PCT/DO/EO/909) indicating the application was abandoned because no reply was received.

On 05 March 2003, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, accompanied by, *inter alia*, an executed declaration and the petition fee for revival of an unintentionally abandoned application.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371 date of this application is **05 March 2003.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-6312
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Paper No.

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

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SEP 25 2009

OFFICE OF PETITIONS

In re Patent No. 7,450,956	:	
Nami Isomae	:	DECISION DISMISSING
Application No. 10/069,957	:	REQUEST FOR
Issue Date: November 11, 2008	:	RECONSIDERATION OF
Filed: March 7, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
016778-0446	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705, filed December 31, 2008. Patentee requests that the determination of patent term adjustment be corrected from one thousand thirty-eight (1038) days to one thousand six hundred thirty-nine (1639) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 1038 days.

BACKGROUND

On June 24, 2008, the Office mailed a notice that the initial determination of patent term adjustment under 35 U.S.C. 154(b) to date was 1061 days. On November 11, 2008, the application matured into U.S. Patent No. 7,450,956, with a revised patent term adjustment of 1038 days. The Office determined that the 1168 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) overlaps with the 1238 days of Office delay

pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) accorded prior to the filing of the request for continued examination. As such, the Office allowed only entry of the adjustment of 1238 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 200 days, the patent issued with a revised patent term adjustment of 1038 (1238 - 200) days.

On December 31, 2008, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1639 days under the court's interpretation of the overlap provision as set forth 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 §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 1839 (1238 + 1169 - 568 overlap) days as these periods do not occur on the same day. Further, given the applicant delay of 200 days, patentee asserts entitlement to 1639 (1839 - 200) days of patent term adjustment.

OPINION

At the outset, the Office notes that patentee's assertion that the period of delay, pursuant to 37 CFR 1.702(b), for the Office taking in excess of three years to issue the patent, is 1169 days is incorrect. A review of the record indicates that the date the national stage commenced is March 8, 2002. As stated in 37 CFR 1.703(b), the period of adjustment under § 1.702(b) is the number of days 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) in an international application and ending on the date a patent was issued. While the date of completion of all 35 U.S.C. 371 requirements, March 7, 2002, is the date used in calculation of the examination delay under 37 CFR 1.702(a)(1), the date the national stage commenced under 35 U.S.C. 371(b), March 8, 2002, is used to determine the Three Year Delay under 37 CFR 1.703(b).

Patentee's interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

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

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

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application (or, in an international application, the date that the national stage commenced under 35 U.S.C. 371(b) or (f)), is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date the national stage commenced under 35 U.S.C. 371(b), March 8, 2002, and ending on the date of filing of a request for continued examination (RCE), May 19, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 1238 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. There were no Office delays subsequent to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 1168 days of patent term adjustment accrued for Office

issuance of the patent more than 3 years after the commencement of the national stage under 35 U.S.C. 371(b).

All of the 1168 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 1238 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 1168 days and the 1238 days is neither permitted nor warranted. 1238 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered 0 additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

CONCLUSION

In view thereof, no adjustment to the patent term will be made.

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 Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :
Holger Rauth, et al. :
Patent No. 7,022,835 : NOTICE
Application No. 10/069,974 :
Filed: July 9, 2002 :
Attorney Docket No. 100564-00106

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to Terri Johnson at (571) 272-2991.

Ramesh Krishnamurthy

for Chris Bottorff
Petitions Examiner
Office of Petitions

04 APR 2003

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ARENT FOX KINTNER PLOTKIN & KAHN
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Washington, D.C. 20036-5339

In re Application of :
PYKETT, Melanie Ann *et al* :
Application No.: 10/069,975 :
PCT No.: PCT/EP00/08729 :
Int. Filing Date: 07 September 2000 :
Priority Date: 09 September 1999 :
Attorney Docket No.: 025069-00001 :
For: SKINCARE COMPOSITION AGAINST FREE RADICALS :

DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This is a decision on applicants' "Communication in Response to Notification of Defective Response" filed 10 January 2003. This is treated as a request under 37 C.F.R. 1.497(d).

BACKGROUND

On 10 May 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating that the declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 10 October 2002, applicants submitted various documents including a three-month extension request and fee, the surcharge fee and an executed declaration.

On 10 December 2002, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration submitted was not in compliance with 37 CFR 1.497(a) and (b) because Stewart Paul Long was not listed as an inventor on the international publication but signed as an inventor on the declaration. Applicants were given a time limit of one month of the date of this Notification or within the time remaining in the Notification of Missing Requirements, whichever is longer. No extension of this time limit pursuant to 37 CFR 1.136(a) was allowed.

On 10 January 2003, applicants filed the instant request which was accompanied by, *inter alia*, a document titled "Assent of Boots Company PLC" signed by Michael John Oliver as Company Secretary and a "Statement of Stewart Paul Long" ("Statement") signed by Mr. Long.

04/10/2003 SNAJARRO 00000012 022135 10069975

01 FC:1460 130.00 CH

DISCUSSION

In the instant petition, applicants acknowledge that the national stage application was filed with a different inventive entity than that named in the international application, *i.e.*, PCT/EP00/08729. 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added 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 § 1.17(l); and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

In the instant request, applicants filed a Statement signed by Stewart Paul Long who request to be added as an inventor in the above-captioned application. The Statement declares that the "he was omitted from the inventorship in the international application without deceptive intention on his part." This satisfies item (1) above.

The processing fee of $130.00 has been charged to Deposit Account No. 02-2135 as authorized. This satisfies item (2) above.

Applicants also submitted an "Assent of Boots Company PLC" signed by Michael John Oliver as Company Secretary. The position of Secretary is a position recognized as having the authority to sign for a corporation. *See* § 324 Manual of Patent Examining Procedure.

Therefore, all the requirements of 37 CFR 1.497(d) are complete.

CONCLUSION

Applicants' request under 37 CFR 1.497(d) to add Stewart Paul Long as an inventor in the above-captioned application is **GRANTED**.

The declaration filed 10 October 2002 is now in compliance with 37 CFR 1.497(d).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 07 September 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 10 October 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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OFFICE OF PETITIONS

In re Application of	:	
Nils Peter Reenberg	:	
Application No. 10/069,978	:	ON PETITION
Filed: 14 March, 2002	:	
Attorney Docket No. 742111-133	:	

This is a decision on the petition filed on 10 March, 2005, under 37 CFR 1.137(a)[1] to revive the above-identified application which is first treated as a petition to withdraw the holding of abandonment.

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

---

[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition to withdraw the holding of abandonment," or as discussed below "Renewed Petition under 37 CFR 1.137(b)."

The application became abandoned on 7 May, 2004, for failure to timely file a response to the non-final Office action mailed on 6 February, 2004, which set a three (3) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 14 December, 2004.

Petitioner asserts that the Office action mailed on 6 February, 2004, was never received.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioner asserts that the non-final Office action mailed on 6 February, 2004, was never received. A review of the record indicates no irregularity in the mailing of the Office action, 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 the failure to receive an Office action must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[2] 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 action was lost in the mail (e.g. if the practitioner has a history of not receiving Office actions).

The showing of record is insufficient to warrant withdrawal of the holding of abandonment. While petitioner states that a copy of the docket sheet from counsel's docketing system is included with the petition, no copy of a docket sheet is located among the

[2]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).

papers received with the petition filed on 10 March, 2005. Any renewed petition should include a copy of the docket record described in the petition.

As the required showing has not been presented, the petition must be dismissed.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[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.[4]

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).[5]

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[3] 35 U.S.C. § 133.

[4] 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).

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

Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[6]

As the showing of record, petitioner's assertion that the Office action mailed on 6 February, 2004, was never received, in itself, is insufficient to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

Furthermore, the petition lacks the required reply to the Office action mailed on 6 February, 2004, as required by 37 CFR 1.137(a)(1). As stated below, a copy of the Office action is included for assistance in preparing petitioner's reply thereto. Any renewed petition should include the reply required by the Office action.

ALTERNATIVE VENUE

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

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

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

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

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

~~is a question whether the delay was unintentional; and~~

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

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

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

Additionally, as petitioner states that the Office action mailed on 6 February, 2004, was never received, a copy of the Office action and the accompanying PTO Forms 1449 and 892, are included for petitioner's reference.

The fee for a petition under 37 CFR 1.137(a) will be charged to counsel's deposit account, as authorized in the present petition.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Office Action mailed 6 February, 2004
PTO-1449 Information Disclosure Citation
PTO-892 Notice of References Cited
Form PTO/SB/64
Privacy Act Statement

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

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JUN 2 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Nils Peter Reenberg	:	DECISION ON PETITION
Application No. 10/069,978	:	
Filed: 14 March, 2002	:	
Atty Docket No. 742111-133	:	

This is a decision on the renewed petition under 37 CFR 1.137(a),[1] filed on 3 June, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 7 May, 2004, for failure to timely submit a reply to the non-final Office action mailed on 6 February, 2004, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 14 December, 2004. The petition filed on 10 March, 2005, was dismissed on 4 April, 2005.

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[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

The application has been restored to pending status.

Receipt of the amendment filed on 3 June, 2005, is acknowledged.

The application file is being referred to Technology Center Art Unit 2643 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 Examiner
Office of Petitions

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JJGJR.: 04-06

Paper No: __

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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of
Wolrich, et al.
Application No. 10/070,006
Filed: 13 May, 2003
Attorney Docket No. 110559-302US1

ON PETITION

This is a decision on the petition filed on 23 February, 2006, to revive the above-identified application under 37 C.F.R. §1.137(b)

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due mailed on 4 October, 2004, with a reply due under a non-extendable deadline on or before 4 January, 2005;
- Petitioner appears to have changed addresses without timely Notice to the Office, because the Notice of Allowance was returned to the Office by the U.S. Postal Service as undelivered/undeliverable on 19 October, 2004;
- Petitioner's submission of Information Disclosure Statements were received online on 1 December, 2004;

- the application went abandoned by operation of law after midnight 4 January, 2005;
- for reasons unclear in the record, the Examiner remailed the Notice of Allowance on 5 July, 2005, with a stated due date of 5 October, 2005, however, as indicated above, the application went abandoned by operation of law after midnight 4 January, 2005;
- the Office mailed the Notice of Abandonment on 18 January, 2006;
- with the instant petition (and fee authorization) filed on 23 February, 2006, under 37 C.F.R. §1.137(b), Petitioner included as a reply a request for continued examination (RCE) with fee and submission, and made the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[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]

---

[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).

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]))

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

Petitioner has satisfied the requirements under the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center 2100 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[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 and/or deposited for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely prepared and/or deposited for shipment.

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EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Manku et al. :
Application No. 10/070,013 : DECISION ON PETITION
Filed: 29 July, 2002 :
Attorney Docket No. 085907-000000US :

This is a decision on the petition filed on 19 September, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

---

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

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

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

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

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

The application became abandoned on 14 September, 2005, for failure to timely submit the issue fee as required by the Notice of Allowance and Fee(s) Due mailed on 13 June, 2005, which set a three (3) month statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

The issue fee will be charged to counsel's deposit account, No. 20-1430.

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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601 California Street
Suite 1111
San Francisco, CA 94108

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OFFICE OF PETITIONS

In re Patent No. 6,831,749 :
Issue Date: December 14, 2004 :
Application No. 10/070,076 : ON PETITION
Filed: March 1, 2002 :
Attorney Docket No. KP0147 :

This is a decision on the petition filed January 3, 2005, which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3223. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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

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#3

0 8 SEP 2003

James S. Hsue
Skjerven Morrill MacPherson LLP
Three Embarcadero Center, 28th Floor
San Francisco, CA 94111

In re Application of :
Vaez-Iravani et al. :
US Application No.: 10/070,079 :
PCT Application No.: PCT/US98/19564 :
International Filing Date: 18 September 1998 :
Priority Date: 19 September 1997 :
Attorney's Docket No.: M-10670-5P US :
For: IMPROVED SAMPLE INSPECTION SYSTEM :

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

The petition to revive under 37 CFR 1.137(b), filed on 01 March 2002 in the above-captioned application, is hereby **GRANTED** as follows.

On 18 September 1998, Applicants filed international application PCT/US98/19564, which claimed priority of an earlier U.S. application filed on 19 September 1997. A demand for international preliminary examination, in which the United States was elected, was filed on 24 March 1999, prior to 19 April 1999, the end of the 19-month period from the 19 September 1997 priority date. The period for paying the basic national fee is thus 30 months and ended at midnight on 19 March 2000.

The basic national fee was not paid on or before 20 March 2000 (Monday). The international application became abandoned as to the United States on 20 March 2000.

The instant petition encloses, *inter alia*:

(1) A transmittal letter for entry into the national stage in the United States (Form PTO-1390), authorizing the USPTO to charge the $710 basic national fee required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(1) to Deposit Account No. 19-2386;

(2) An authorization to charge the $1,280 petition fee to the above deposit account;

(3) A statement to the effect that the entire delay in filing the basic national fee from its due date until the filing of the instant petition under 37 CFR 1.137(b) was unintentional.

Moreover, a terminal disclaimer is not applicable in the instant case.

In view of the above, 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.

Applicants' claim for priority is acknowledged. The application has an international filing date of 18 September 1998 under 35 U.S.C. 363.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including mailing of a Notification of Missing Requirements under 35 U.S.C. 371, requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b).

Richard Cole
PCT Legal Examiner
PCT Legal Office

RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

12 DEC 2002
UNITED STATES PATENT AND TRADEMARK OFFICE

#5

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WASHINGTON, D.C. 20231
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DAVID J LEVY, CORPORATE INTELLECTUAL PROPERTY
GLAXOSMITHKLINE
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK, NC 27709-3398

In re Application of	:	
ANDREWS, Clarence, Webster, et al.	:	
U.S. Application No.: 10/070,084	:	DECISION ON PETITION
PCT No.: PCT/EP00/08487	:	
International Filing Date: 31 August 2000	:	
Priority Date: 04 September 1999	:	
Attorney's Docket No.: PU3517USW	:	
For: BENZOPHENONONES AS INHIBITORS OF REVERSE TRANSCRIPTASE	:	

This decision is issued in response to applicants' "Response To Missing Requirements Under 35 U.S.C. 371 In The DO/EO/US" filed 08 August 2002, which has been treated as a petition under 37 CFR 1.181 to confirm the filing of an executed declaration and surcharge payment on 07 March 2002. No petition fee is required.

BACKGROUND

On 31 August 2000, applicants filed international application PCT/EP00/08487 which claimed a priority date of 04 September 1999 and which designated the United States. On 15 March 2001, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

On 23 March 2001, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 04 March 2002.

On 01 March 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment for the basic national fee.

On 29 July 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 indicating that an oath or declaration in compliance with 37 CFR 1.497 and a surcharge for providing the oath or declaration later than 30 months from the priority date was required.

On 08 August 2002, applicants filed the submission considered herein as a petition under 37 CFR 1.181. The petition asserts that on 07 March 2002 applicants filed an executed declaration and an authorization to charge Deposit Account No. 07-1392 the $130 surcharge for filing this declaration later than thirty months after the priority date, that is, the materials required by the Notification Of Missing Requirements. Attached to the petition are copies of the materials purportedly filed on 07 March 2002 as well as a copy of a return postcard which itemizes these materials and bears a USPTO receipt stamp dated 07 March 2002.

DISCUSSION

Based on applicants' statements in the present petition, the attached return postcard, and internal USPTO records which indicate the receipt of the $130 surcharge payment on 07 March 2002, it is concluded that the materials attached to the present petition, including the executed declaration and surcharge payment, were originally filed in the USPTO on 07 March 2002. Accordingly, the Notification Of Missing Requirements mailed 29 July 2002, based as it was on applicants' purported failure to file these materials, is appropriately vacated.

A review of the declaration filed 07 March 2002 reveals that it is in compliance with 37 CFR 1.497.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**. The materials attached to the present petition, including the executed declaration and the surcharge payment, are considered to have been filed on 07 March 2002.

The Notification Of Missing Requirements mailed 29 July 2002 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision. The 35 U.S.C. 371(c) date is 07 March 2002.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/27/09

TO SPE OF : ART UNIT 2183

SUBJECT : Request for Certificate of Correction for Appl. No.: 10070091 Patent No.: 7546444 B1

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

Eric Coleman for Eddie Chan (SPE) Art Unit 2183

ERIC COLEMAN U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

05 SEP 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

#6

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Carrier, Blackman & Associates
24101 Novi Road, Suite 100
Novi, MI 48375

In re Application of :
AKEDO, Jun, et al. :
U.S. Application No.: 10/070,104 : DECISION ON PETITION
PCT No.: PCT/JP00/07076 :
International Filing Date: 12 October 2000 :
Priority Date: 12 October 1999 :
Attorney's Docket No.: KNI-162-A :
For: COMPOSITE STRUCTURE AND METHOD :
AND APPARATUS FOR FORMING THE SAME :

This decision is issued in response to the "Response And Objection To Erroneous Notification Of Missing Requirements Under 35 U.S.C. 371" filed 05 June 2002, treated herein as a petition under 37 CFR 1.181 to confirm the filing on 19 February 2002 of declarations in compliance with 37 CFR 1.497. No petition fee is required.

BACKGROUND

On 12 October 2000, applicants filed international application PCT/JP00/07076 which claimed a priority date of 12 October 1999 and which designated the United States. On 19 April 2001, a copy of the international application was communicated to the United States Patent and Trademark Office ("USPTO") by the International Bureau ("IB").

A Demand was filed with the International Preliminary Examining Authority electing the United States prior to the expiration of 19 months from the priority date. As a result, the deadline for submission of the basic national fee was extended to expire thirty months from the priority date, i.e., 12 April 2002.

On 19 February 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, a translation of the international application into English, and two declarations. One of the declarations consisted of three pages and identified only one inventor, Jun AKEDO. The second declaration consisted of five pages and identified six inventors (Jun AKEDO was not named on this declaration). The seven inventors identified on these two declarations correspond to the seven inventors listed on the international application

On 07 May 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements indicating that an oath or declaration in compliance with 37 CFR 1.497 and a surcharge for providing the oath or declaration later than thirty months from the priority date were required. The Notification also informed applicants that the failure to

submit these materials within two months of the date of the Notification would result in abandonment of the application. The Notification specifically stated that the declarations filed on 19 February 2002 were defective because "all the inventors must be identified on all the declarations."

On 05 June 2002, applicants filed the "Response And Objection To Erroneous Notification Of Missing Requirements Under 35 U.S.C. 371" considered herein. Applicants' submission did not include a new declaration in compliance with 37 CFR 1.497 or the required surcharge. Rather, applicants argue that the declarations filed on 19 February 2002 were in compliance with 37 CFR 1.497, and that the revised declaration and surcharge are therefore not required.

DISCUSSION

37 CFR 1.497(a)(3) states that, among other information, the declaration must identify "each inventor and the country of citizenship of each inventor." Here, neither of the two declarations filed by applicants on 19 February 2002 satisfy this requirement. The three-page declaration identifies only one of the seven inventors (Jun AKEDO); the five-page declaration identifies only six of the seven inventors (it does not list Jun AKEDO). Accordingly, neither of these declarations complies with 37 CFR 1.497(a)(3). This defect was specifically identified in the Notification Of Missing Requirements mailed 07 May 2002 ("all the inventors must be identified on all the declarations").

Applicants argue that "[b]etween the two (2) declarations, all seven (7) inventors signatures were included" and that the declarations are therefore acceptable. This ignores the requirements of 37 CFR 1.497. It is not simply the signatures of all seven inventors that are required; what is required is the signature of all seven inventors **on declarations that comply with 37 CFR 1.497**. As discussed above, neither of the declarations filed here comply with 37 CFR 1.497, and specifically 37 CFR 1.497(a)(3). Applicants' argument that the 19 February 2002 submission satisfies 37 CFR 1.497 is therefore rejected.

It is noted that separate declarations may still be submitted, and each complete declaration submitted need not be signed by all the inventors; however, each submitted declaration must comply with the requirements of 37 CFR 1.497 (i.e., each declaration must list **all** of the seven inventors, even those who will not be signing that particular declaration).

CONCLUSION

Based on the above, applicants' petition is **DISMISSED** without prejudice. As stated in the Notification Of Missing Requirements mailed 07 May 2002, the declarations filed on 19 February 2002 are defective for failure to identify all the inventors.

Applicants' are given **ONE (1) MONTH** from the mail date of this decision to submit an oath or declaration in compliance with 37 CFR 1.497. This deadline is non-extendable; however, applicants may still obtain extensions of time under 37 CFR 1.136(a) with respect to the original deadline set forth in the Notification Of Missing Requirements mailed 07 May 2002.

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 International Division, Legal Staff.

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

#9
DTO c'd PCT/PTO 0 3 OCT 2002

KNI-162-A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Akedo et al.
Serial Number:	10/070,104
Filed:	19 February 2002
Group Art Unit:	1772
Examiner:	Unknown
Confirmation Number:	9552
Title:	COMPOSITE STRUCTURE AND METHOD AND APPARATUS FOR FORMING THE SAME

TRANSMITTAL OF DECLARATION AND RESPONSE TO DECISION ON PETITION

Attention: International Division, Legal Staff
Assistant Commissioner For Patents
Box PCT
Washington, D.C. 20231

Sir:

In connection with the referenced patent application, and in response to the Decision On Petition dated 05 September 2002, applicant encloses a facsimile copy of the required Declaration Under 37 CFR 1.63. No additional fee payment is necessary.

Favorable consideration is respectfully requested.

Respectfully submitted,

Customer Number 21828
Carrier, Blackman & Associates, P.C.
24101 Novi Road, Suite 100
Novi, Michigan 48375
27 September 2002

Joseph P. Carrier
Attorney for Applicant
Registration No. 31,748
(248) 344-4422

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to Attention: International Division, Legal Staff, Assistant Commissioner For Patents, Washington, D.C. 20231 on 27 September 2002.

Dated: 27 September 2002
JPC/km/eb
enclosure

Kathryn MacKenzie

11/24/2003 CBURT1 00000027 10070104
01 FC:1617 130.00 DA

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/070138

Paper No.: —

DATE : 2/1/06

TO SPE OF : ART UNIT 3746

SUBJECT : Request for Certificate of Correction on Patent No.: 6820055 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.

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

Comments:

Lack of Support that it was Office Mistake, as stated in cover letter dated 1/12/06

EHUD GARTENBERG
SUPERVISORY PATENT EXAMINER

Ehud Gartenberg — SPE

3746 — 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

February 27, 2007

Ralph A. Dowell
2111 Eisenhower Avenue
Suite 406
Alexandria, VA 22314

Patent No: 6872055 B1
Application No: 10/070138
Applicant: Dieter Hoffmeier
Issued: March 29, 2005
Title: **MUD SUCTION UNIT**

Request for Certificate Of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322.

Inspection of the application for the above patent reveals that the error mentioned in your request is in fact printed in accordance with the record in the Patent and Trademark Office, as passed to issue by the examiner. There being no fault on the part of the Patent and Trademark Office, it has no authority to issue a certificate of correction under the provision of 1.322.

In view of the foregoing your request in this matter are hereby **denied**.

However, further consideration will be given to these matters, upon receipt of a request for certificate of correction under the provision of 1.323, accompanied by the appropriate fee, which is presently $100.

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

E

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/07/06

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/070170** Patent No.: **6994671**

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**.

A Green

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

_____ 3735

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

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

COPY MAILED

MAR 1 0 2009

OFFICE OF PETITIONS

In re Patent No. 6737665
Issue Date: 05/18/2004
Application No. 10/070192
Filed: 02/26/2002
Attorney Docket Number: 064/02587 .

ON PETITION

This is a decision on the "STATUS REQUEST REGARDING PETITION UNDER 27 CFR 1.378 TO ACCEPT UNINTENTIONALLY DELAYED MAINTENANCE FEE," filed December 15, 2008,[1] to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 18, 2008 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

Small entity status will apply as indicated in the petition filed on July 7, 2008.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

---

[1] A petition under 37 CFR 1.378(c) and the required fees were filed on July 7, 2008, but were not properly entered in Office records. The Office apologizes for the delay.

Patent No. 6737665

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3231

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

G.E. EHRLICH (1995) LTD.
C/O MARTIN D. MOYNIHAN
PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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JUN 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Schuldt-Hempe, et al. :
Application No. 10/070,219 : ON PETITION
Filed: July 16, 2002 :
Attorney Docket No. ETH1404 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 30, 2004, 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 September 23, 2003. A two (2) month extension of time having been obtained pursuant to the provisions of 37 CFR 1.136(a), the date of abandonment of this application is February 24, 2004.

The file is being forwarded to Technology Center 3700 for review of the Request For Continued Examination, filed April 30, 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

09 OCT 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Sheldon H. Parker
Parker & DeStefano
300 Preston Avenue
Suite 300
Charlottesville, VA 22902

In re Application of MARSHALL et al	:	
U.S. Application No.: 10/070,238	:	DECISION ON PETITION
Int. Application No.: PCT/AU00/01047	:	
Int. Filing Date: 31 August 2000	:	UNDER 37 CFR 1.137(b)
Priority Date: 31 August 1999	:	
Attorney Docket No.: GC-371-US	:	
For: METHODS AND DEVICES FOR OBTAINING SAMPLES FROM HOLLOW VISCERA	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 04 June 2002.

BACKGROUND

On 31 August 2000, applicant filed international application PCT/AU00/01047, which claimed priority of an earlier Australia application filed 31 August 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 08 March 2001. 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 in the United States expired at midnight on 28 February 2002.

On 28 February 2002, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US).

On 14 May 2002, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the present application is abandoned as to the United States for failure to timely file the requisite basic national fee.

On 04 June 2002, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), in cases where the USPTO was neither the International Searching Authority (ISA) nor the International Preliminary Examining Authority (IPEA) and where the International Search Report was not prepared by the EPO or JPO, the requisite basic national fee is $520.00 as set forth by 37 CFR 1.492(a)(3). Applicant has submitted $445.00 towards the basic national fee. The remaining $75.00 for the basic national fee will be charged to Deposit Account No.16-0478 as authorized in the present petition.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a properly executed an oath or declaration in compliance with 37 CFR 1.497 must be submitted.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 3 2005

NOVAK DRUCE DELUCA & QUIGG, LLP
1300 EYE STREET NW
SUITE 400 EAST
WASHINGTON DC 20005

In re Application of:
Huber et al.
Serial No.: 10/070,275
Filed: March 6, 2002
Attorney Docket No.: 17725 PCT (PC28530A)

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR § 1.181(a) filed on June 24, 2005, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed January 2, 2003.

A review of the file history shows that the examiner mailed an Office action to applicants on January 2, 2003, setting a three-month statutory time period for reply. On September 30, 2003, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that a timely response to the Office action was filed on April 1, 2003, as evidenced by the Certificate of Mailing date of April 1, 2003; and received by the USPTO on April 7, 2003, as evidenced by the return receipt stamped postcard. Applicants also point out that the notice of abandonment was sent to the wrong address.

In view of this evidence, applicants are considered to have submitted a timely reply.

Applicants' petition is **GRANTED**. This application will be forwarded to the examiner for consideration of the Response of April 1, 2003.

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

Marianne C. Seidel for
George Elliott
Director, Technology Center 1600

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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MAY 24 2006

OFFICE OF PETITIONS

NOVAK DRUCE DELUCA & QUIGG, LLP
1300 EYE STREET NW
SUITE 400 EAST TOWER
WASHINGTON DC 20005

In re Application of :
Huber, et al. : DECISION ON APPLICATION
Application No. 10/070,275 : FOR PATENT TERM ADJUSTMENT
Filed: March 6, 2002 :
Atty. Dkt. No.: 17725 PCT :
(PC28530A) :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705," filed April 4, 2006. This matter is being properly treated under 37 CFR 1.705(b) as a timely filed application for patent term adjustment.

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

The correct patent term adjustment ("PTA") at the time of allowance is 881 days. The Office will adjust the PAIR screen to reflect that the PTA determination at the time of mailing of the instant decision reflects an adjustment of 881 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed January 9, 2006, indicated that the PTA to date is zero days. The instant application for patent term adjustment along with issue fee payment were timely filed April 4, 2006.

An adjustment of 886 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(2) and 1.703(a)(2). The adjustment began August 8, 2003, the day after the date that is four months after the date that a response to the non-final office action was filed, and ended January 9, 2006, the date the Notice of Allowance was mailed.

The Office errantly entered June 24, 2005 as the date a reply to the non-final Office action, mailed January 2, 2003, was submitted. A review of the application history reveals that a

response to the non-final Office action was timely submitted April 7, 2003.

Accordingly, the adjustment of 886 days is properly reduced five days, as argue by applicants, in accordance with 37 CFR 1.704(b). The adjustment began April 3, 2003, the day after the date that is three months after the date that the non-final Office action was mailed, and ended April 7, 2003, the date a reply to the non-final Office action was filed.

It is noted that the Notice of Abandonment, mailed September 30, 2003, was mailed to the incorrect correspondence address. Therefore, no reduction under 37 CFR 1.704(c)(4) has been assessed.

In view thereof, at the time of allowance, the application is entitled to an adjustment of 881 days, as argued by applicants.

Applicants are further advised that should a patent issue, the patent term adjustment indicated therein will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

Receipt is hereby acknowledged of the required Patent Term Adjustment application fee of $200.00.

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

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

Enclosure: Copy of Adjustment PAIR Calculation

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 05 2006

OFFICE OF PETITIONS

Nash & Associates PLLC
1030 Fifteenth Street, N.W.
Sixth Floor
Washington, DC 2005-1503

In re Application of
Martin
Application No. 10/070,279
Patent No. 6,960,588
Filed: March 6, 2002
Attorney Docket 24903

: DECISION DISMISSING PETITION

This decision is in response to Applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT" filed on November 28, 2005 requesting that the Office adjust the PTA determination at the time of the mailing of the notice of issuance from a determination of 190 days to a determination of three hundred and fifty-two (352) days.

Applicants application for PTA is **DISMISSED.** Applicants are given **thirty** days to respond to this decision. No extensions of time will be granted under 37 CFR 1.136. Any response should be directed to Mail Stop Petitions.

Applicants assert that the Office erred in granting applicant only 78 days for failing to issue the application within three years of the filing date. Applicants assert that the proper amount of time in not issuing the application within three years is two hundred and forty days. Applicants assert that the proper amount of overall PTA is thee hundred and fifty two days.

A review of the file reflects that applicants' arguments are not persuasive. Applicant is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

Accordingly, the two hundred and forty days allotted under 1.702(b) is greater than the amount of time granted for missing the requirements of 37 CFR 1.702(a)(1) and 1.702(a)(4) by 78 days. Hence, the Office enters 78 days into the PALM entry titled PTA 36 months to provide the correct amount of PTA.

After the mailing of this decision, the application will remain in the Office of Patent Legal Administration for any response to this decision. After the time period has elapsed, the Office will return this file to the file repository.

The Office has assessed the $200.00 fee pursuant to 37 CFR 1.18(e). No additional fees are required in determining this petition.

Telephone inquiries specific to this matter should be directed TO Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, at (571) 272-7757.

Kery A Fries

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

cc: Pair calculation

18 JUN 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Kenneth Tremain
Crompton Corporation
199 Benson Road
Middlebury , Connecticut 06749

In re Application of :
SUBRAMANIAN et al. :
Application No.: 10/070,282 : DECISION ON REQUEST
PCT No.: PCT/US00/24142 :
Int. Filing Date: 01 September 2000 :
Priority Date: 07 September 1999 :
Attorney Docket No.: PER0020 :
For: QUATERNARY AMMONIUM SALTS AS THICKENING AGENTS FOR AQUEOUS SYSTEMS

This decision is in response to applicants' "Request for Correction of Inventorship Under 37 CFR 1.48(a)" which is being treated as a request under 37 CFR 1.497(d) filed 15 April 2002.

BACKGROUND

On 01 September 2000, applicants filed international application No. PCT/US00/24142 which claimed a priority date of 07 September 1999 and designated the United States. The international application named Shankar Subramanian, Mojahedul Islam, and Cent Burgazli as inventors. A Demand for international preliminary examination was filed prior to 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee expired at midnight on 07 March 2002.

On 04 March 2002, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee and a copy of the international application.

On 15 April 2002, applicants filed "Petition to Correct Inventorship under 37 CFR 1.48(a)."

On 07 May 2002, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

DISCUSSION

In the instant case, the international application named Shankar Subramanian, Mojahedul Islam, and Cent Burgazli as inventors. Applicants request to delete Mojahedul Islam as an inventors and add Shawn Zhu, Yun-Peng Zhu and David Feuerbacher as inventors. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires:

(1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a);

(3) the fee set forth in 37 CFR 1.17(i); and

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Applicants have satisfied items (1) and (2).

Regarding Item (3), Deposit Account No. 23-2656 has been charged the processing fee of $130 as set forth in 37 CFR 1.17(i).

In regard to item (4) above, the written consent of the assignee is not acceptable. The consent of assignee is executed by the Assistant Secretary and the petition does not aver that Assistant Secretary has the authority to provide consent for the assignee. Therefore, applicants are requested to file an additional written consent of the assignee that provides the name and title of the individual with authority to act on behalf of the assignee. Section 201.03 of the M.P.E.P states in part that:

> "The title of the party signing on behalf of a corporate assignee and the authority to do so should be set forth in the written consent. Consent of a corporate assignee may be signed by an officer (e.g., president, vice president, secretary, or treasurer) of the corporation or may include a statement in oath or declaration form that the person signing the consent has authority to do so. Further the assignee must establish its ownership of the application in accordance with 37 CFR 3.73."

For the reasons discussed above, it is inappropriate, at this time, to grant applicants request for correction of inventorship.

B. Defective Declaration

The declaration filed 15 April 2002 is not acceptable under 37 CFR 1.497. Specifically, the declaration is executed by Cenk Burgazli, whereas the international application lists the inventor as Cent Burgazli. As stated MPEP 201.03,

> a request under 37 CFR 1.48 will not be required: (B) Where a typographical or transliteration error in the spelling of an inventor 's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required.

Applicants have not provided an explanation of the typographical or transliteration error of inventor Cent Burgazli.

In that an acceptable declaration of the inventor(s) has not been submitted, the application cannot be accepted into the national stage at this time.

Deposit Account No.23-2656 has been charged a $65.00 surcharge fee under 37 CFR 492(e) for supplying an oath or declaration later than 30 months from the earliest claimed priority date, as authorized.

CONCLUSION

For the reasons discussed above, applicants' request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 07 May 2002 is **VACATED**.

A proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. A proper response must include a written consent of assignee in compliance with 37 CFR 3.73(b) and the response must be accompanied by an acceptable explanation of the typographical or transliteration error of the inventor on the present declaration. Failure to file a proper response in a timely manner will result in ABANDONMENT of the 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 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

Anthony Smith
Attorney-Advisor
PCT Legal Office
Tel: (703) 308-6314
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ralph J. Mancini
Akzo Nobel Inc.
7 Livingstone Avenue
Dobbs Ferry, New York 10522-3408

In re Application of :
SUBRAMANIAN et al. :
Application No.: 10/070,282 : DECISION ON REQUEST
PCT No.: PCT/US00/24142 :
Int. Filing Date: 01 September 2000 :
Priority Date: 07 September 1999 :
Attorney Docket No.: PER0020 :
For: QUATERNARY AMMONIUM SALTS AS THICKENING AGENTS FOR AQUEOUS SYSTEMS

This decision is in response to applicants' "Petition For Revival of Unintentionally Abandoned Patent Application" which is being treated as a petition under 37 CFR 1.181 and renewed request under 37 CFR 1.497(d) filed 20 January 2004.

BACKGROUND

On 01 September 2000, applicants filed international application PCT/US00/24142 which claimed a priority date of 07 September 1999 and designated the United States. The international application named Shankar Subramanian, Mojahedul Islam, and Cent Burgazli as inventors. A Demand for international preliminary examination was filed prior to 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee expired at midnight on 07 March 2002.

On 04 March 2002, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee and a copy of the international application.

On 15 April 2002, applicants filed "Petition to Correct Inventorship under 37 CFR 1.48(a)." The Request under 37 CFR 1.497(d) was dismissed in the Decision mailed 18 June 2002.

On 07 May 2002, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The Notification of Missing Requirements was vacated in the Decision mailed 18 June 2002.

On 11 February 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT indicating that the application was abandoned for failure to file a complete response to the Decision mailed 07 May 2002 within the time period set therein.

On 20 January 2004, applicants filed the present petitions.

DISCUSSION

A. Petition under 37 CFR 1.181

Applicant states in their present petition that the "Renewed Request under 37 CFR 1.497(d)" and a "Declaration and Consent" were received by the USPTO on 10 July 2002. A review of the application file reveals that the response to the Decision filed 10 July 2002 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by the title of invention; application number; and the docket number. The evidence submitted by applicants, consisting of a postcard receipt with a PCT/PTO mailroom date stamp of 10 July 2002 which itemizes all the papers filed on said date including: Renewed Request under 37 CFR 1.497(d). The postcard receipt bearing the serial number, title of invention, and attorney docket number is sufficient to indicate that the above papers were received on 10 July 2002.

B. Renewed Request under 37 CFR 1.497(d)

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires: (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part; (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a); (3) the fee set forth in 37 CFR 1.17(i); and (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b). Applicants have satisfied items (1), (2) and (3).

C. Name Change

Applicants state in the "Renewed Request under 37 CFR 1.497(d) that "the inventor's name, Cenk Burgzli, is correct as it appears in the declaration filed April 15, 2002. The name "Cent" as it appears in the International Application is a typographical error." As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a

petition under 37 CFR 1.48(a) is not required. Accordingly, applicants' explanation of the difference in the spelling of the third inventor's name is accepted and noted for the record.

The correspondence address will be corrected in the PALM database to: Ralph J. Mancini, Akzo Nobel Inc., 7 Livingstone Avenue, Dobbs Ferry, New York 10522-3408

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED** and the Notification of Abandonment dated 11 February 2003 is hereby **VACATED**.

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

A review of the application papers reveals that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 01 September 2000 and a date of **15 April 2002** under 35 U.S.C. 371.

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

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

#6

19 JUN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Michael D Schumann
Merchant & Gould
P O Box 2093
Minneapolis, MN 55402-0903

In re Application of	:	
CAO	:	
Application No.: 10/070,289	:	
PCT No.: PCT/CN00/00254	:	
Int. Filing Date: 30 August 2000	:	DECISION
Priority Date: 07 September 1999	:	
Attorney Docket No.: 13935.1USWO	:	
For: A MAMMARY PROSTHESIS MADE OF POLYACRYLAMIDE HYDROGEL	:	

This decision is in response to the submission filed on 14 February 2003.

BACKGROUND

On 30 August 2000, applicant filed international application PCT/CN00/00254, which claimed a priority date of 07 September 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 15 March 2001. 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 in the United States expired at midnight on 07 March 2002.

On 28 February 2002, applicants filed a TRANSMITTAL LETTER (FORM PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, a declaration of the inventor, a translation of the international application into English, and an assertion of small entity status.

On 10 May 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required because the declaration of the inventor filed 28 February 2002 did not identify the citizenship of each inventor and that the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date was also required.

On 15 July 2002, applicants filed a submission including, *inter alia*, a transmittal letter and a declaration of the inventor. The transmittal letter indicated the serial number as 10/010289. However, the applicant, title, and attorney docket number listed on the transmittal letter are not consistent with the applicant, title and attorney docket number for 10/010289. This submission has been treated as a petition under 37 CFR 1.182.

On 31 January 2003, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT indicating that the application was abandoned as to the United States for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 mailed 10 May 2002.

On 14 February 2003, applicants filed the instant submission, which was accompanied by, *inter alia*, a copy of a date-stamped postcard receipt and a copy of the declaration of the inventor. This submission has been treated as a petition under 37 CFR 1.181.

DISCUSSION

Petition Under 37 CFR 1.181 filed 14 February 2003

The original papers filed 15 July 2002 have been located. Accordingly, the petition under 37 CFR 1.181 is DISMISSED as MOOT.

Petition Under 37 CFR 1.182 filed 15 July 2002

The petition fee of $130 has been charged to Deposit Account No. 13-2725. A review of the application file including counsel's statements in the petition filed 14 February 2003, as well as a review of the USPTO file for 10/010,289, reveals that the indication of application 10/010,289 was incorrect, and that the present application should in fact be application number 10/070,289. The NOTIFICATION OF ABANDONMENT mailed 31 January 2003 is hereby VACATED.

Declaration of Inventors

The declaration of the inventor filed 15 July 2002 is in compliance with 37 CFR 1.497(a)-(b). The surcharge under 37 CFR 1.492(e) has been paid.

CONCLUSION

For the reasons set forth above, the NOTIFICATION OF ABANDONMENT mailed 31 January 2003 is hereby **VACATED**.

For the reasons set forth above, the petition under 37 CFR 1.181 filed 14 February 2003 is **DISMISSED** as **MOOT**.

For the reasons set forth above, the petition under 37 CFR 1.182 filed 15 July 2002 is

GRANTED.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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33RD FLOOR
NEW YORK, NY 10022-6030

COPY MAILED

OCT 2 6 2006

OFFICE OF PETITIONS

In re Application of :
Vitale Bruzzo :
Application No. 10/070,300 : ON PETITION
Filed: June 14, 2002 :
Attorney Docket No. 16791-2 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed October 12, 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 July 12, 2004. A response was filed October 12, 2004 but by Advisory Action of November 8, 2004, the applicant was advised that the response did not place the application in condition for allowance. This application therefore became abandoned on October 13, 2004. Accordingly, a Notice of Abandonment was mailed June 14, 2005.

Petitioner has submitted a Request for Continued Examination (RCE) and requests that the amendment submitted October 12, 2004 be considered as the submission required under 37 CFR 1.114.

The application is being forwarded to Technology Center 3744 for processing of the RCE.

Telephone inquiries related to this decision 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 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)).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-20-08

TO SPE OF : ART UNIT 2145

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/070326 Patent No.: 7313631

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

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

Should c ofc be Approved

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

Ennis Young
Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: CHANGES ok

SPE

2445
Art Unit

04 JUN 2002

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Venable
P.O. Box 34385
Washington, DC 20043-9998

In re Application of SUDO et al
U.S. Application No.: 10/070,328
Int. Application No.: PCT/US00/17024
Int. Filing Date: 21 June 2000
Priority Date: 21 June 1999
Attorney Docket No.: 32390-178943
For: THIENYLHYDRAZON WITH DIGITALIS-LIKE PROPERTIES (POSITIVE INOTROPIC EFFECTS)

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 06 March 2002.

BACKGROUND

On 21 June 2000, applicant filed international application PCT/US00/17024, which claimed priority of an earlier United States application filed 21 June 1999. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 21 December 2001.

International application PCT/US00/17024 became abandoned as to the United States at midnight on 21 December 2001 for failure to pay the basic national fee.

On 06 March 2002, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be submitted.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

0 9 DEC 2003

#8

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Venable
P.O. Box 34385
Washington, DC 20043-9998

In re Application of SUDO et al	:	
U.S. Application No.: 10/070,328	:	
Int. Application No.: PCT/US00/17024	:	
Int. Filing Date: 21 June 2000	:	DECISION
Priority Date: 21 June 1999	:	
Attorney Docket No.: 32390-178943	:	
For: THIENYLHYDRAZON WITH DIGITALIS-LIKE PROPERTIES (POSITIVE INOTROPIC EFFECTS)	:	

This is in response to applicant's "Petition and Fee to Delete and/or Add to Original Erroneously Named or Not Named Inventor(s) in Declaration-Nonprovisional Application--(37 C.F.R. § 1.48(a))" filed 08 April 2003, which is being treated under 37 CFR 1.497(d).

BACKGROUND

On 21 June 2000, applicant filed international application PCT/US00/17024, which claimed priority of an earlier United States application filed 21 June 1999. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 21 December 2001.

International application PCT/US00/17024 became abandoned as to the United States at midnight on 21 December 2001 for failure to pay the basic national fee.

On 06 March 2002, applicant filed a petition under 37 CFR 1.137(b).

On 04 June 2002, this Office mailed a decision granting the 06 March 2002 petition.

On 09 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497(d) must be filed.

On 12 November 2002, applicant filed an executed declaration.

On 07 March 2003, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the declaration lists inventors who are not listed in the international application.

On 08 April 2003, applicant filed the present petition under 37 CFR 1.497(d).

DISCUSSION

Applicant is advised that a proper declaration has not been filed. Specifically, it is not sufficient to submit only the signature page of a declaration. For example, the declaration filed 12 November 2002 contains one of Page 1, three of Page 2, six of Page 3, and four of Page 4. Similarly, the declaration filed 08 April 2003 contains one of Page 1 and two of Page 2. Applicant must file either (1) a single complete declaration executed by all of the inventors or (2) multiple complete declarations, wherein each inventor's signature appears on at least one of the multiple complete declarations.

37 CFR 1.497(d) (effective 07 November 2000) states,

> If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration 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 § 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

With regard to item (1) above, applicant has provided the requisite statements.

With regard to item (2) above, applicant has provided the requisite processing fee.

With regard to item (3) above, in situations where an assignee consents to a correction of inventorship, ownership of the application must be established. See MPEP 324. Under 37 CFR 3.73(b), ownership is established by documentary evidence of a chain of title from the original owner to the assignee. In the present case, the two assignees are University of Maryland, Baltimore and Universidade Federal do Rio de Janeiro.

University of Maryland, Baltimore

The respective interests of inventors 1-3 have been assigned to the University of Maryland, Baltimore. Applicant has specified by reel and frame where the assignment has been recorded in the USPTO.

Universidade Federal do Rio de Janeiro

The respective interests of inventors 4-13 have been assigned to Universidade Federal do Rio de Janeiro. Applicant has provided a copy of the assignment agreement which evidences the chain of title.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a new Notification of Defective Response (Form PCT/DO/EO/916), which should indicate that a proper oath or declaration, as discussed above, must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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28 MAR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYVALE CA 94086

In re Application of	:	
FEICK et al.	:	
Application No.: 10/070,339	:	DECISION ON
PCT No.: PCT/US01/32309	:	
Int. Filing Date: 17 October 2001	:	PETITION
Priority Date: 17 October 2000	:	
Attorney Docket No.: 24717-719	:	
For: METHOD AND APPARATUS FOR COMMUNICATING DATA WITHIN MEASUREMENT TRAFFIC	:	

This communication is in response to applicants' submission filed 21 December 2005, which has properly been treated as a petition under 37 CFR 1.10(e).

BACKGROUND

On 17 October 2001, applicant filed international application PCT/US01/32309, which designated the United States and claimed a priority date of 17 October 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 25 April 2002. The twenty-month period for paying the basic national fee in the United States expired at midnight on 17 June 2002.

On 27 February 2002, applicant filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, the surcharge under 37 CFR 1.492(e) for submitting the oath or declaration later than twenty months from the priority date, and an assertion of small entity status.

On 18 November 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required. The Notification set a two-month extendable period for reply.

On 17 January 2003, applicants filed a submission which included a declaration of inventors.

On 22 August 2003, a Communication was mailed indicating that the declaration of

inventors filed 17 January 2003 did not comply with 37 CFR 1.497(a)-(b). The Communication set a time limit of one month from the mailing date of the Communication.

On 03 November 2005, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DE/EO/909) indicating that the application was abandoned as to the United States of America for failure to reply to the NOTIFICATION OF MISSING REQUIREMENTS mailed 18 November 2002.

On 21 December 2005, applicants filed the instant submission which included, *inter alia*, a copy of the Customer Copy of the "Express Mail Post Office to Addressee" mailing label number EV333491699US, a copy of a transmittal letter filed 22 September 2003 itemizing five full sets of declarations of inventors, and five sets of declarations of inventors. The mailing label was addressed to "Mailstop PCT, Commissioner of Patents, PO Box 1450, Alexandria, VA 22313-1450" and shows a date of "92203" in the "Date In" box.

DISCUSSION

The evidence of record is sufficient to establish with reasonable certainty that the five sets of declarations of inventors were deposited with the United States Postal Service as an "Express Mail Post Office to Addressee" mailing on 22 September 2003. Specifically, the "Express Mail" label number ("EV333491699US") appears on the transmittal letter. As discussed above, the copy of the Customer Copy of this "Express Mail" label shows a "Date In" of 22 September 2003. The NOTIFICATION OF ABANDONMENT mailed 03 November 2005 is hereby vacated.

The declarations filed 22 September 2003 are in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.10(e) is **GRANTED**.

The NOTIFICATION OF ABANDONMENT mailed 03 November 2005 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

Daniel Stemmer
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PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301; Facsimile: (571) 273-0459

14 MAR 200

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Rahul Pathak
Pennie & Edmonds
1155 Avenue of the Americas
New York, NY 10039-2711

In re Application of :
SCHNELL et al. :
Application No.: 10/070,343 :
PCT No.: PCT/EP00/08587 :
Int. Filing Date: 02 September 2000 : DECISION
Priority Date: 04 September 1999 :
Attorney Docket No.: 1803-334-999 :
For: SYSTEM FOR THERMOCYCLING OF FLUIDS IN CARTRIDGES :

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371.

On 02 September 2000, applicant filed international application No. PCT/EP00/08587, which claimed a priority date of 04 September 1999 and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 15 March 2001.

On 22 December 2000, a Demand was filed with the International Preliminary Examining Authority electing the United States. As a result the deadline for payment of the basic national fee was extended to expire in 30 months from the priority date, or on 04 March 2002.

On 28 February 2002, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 15 May 2002, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration and the surcharge for filing the oath/declaration was required. Applicants were also advised, *inter alia*, that they must provide an initial or substitute computer readable form of the Sequence Listing and an initial or substitute paper copy or compact disc of the "Sequence Listing", as well as an amendment directing its entry into the specification.

On 14 August 2002, applicants filed a "Response to Notification of Missing Requirements under 35 U.S.C. 371" with an executed declaration and power of attorney.

On 16 September 2002, applicants filed a supplemental paper to "Response to Notification of Missing Requirements under 35 U.S.C. 371" indicating that after review of the application as filed, no disclosure of nucleotide and/or peptide sequences were found, which must be disclosed.

On 10 January 2003, a Notification of Defective Response (FORM PCT/DO/EO/916)

was mailed to applicants indicating that the required sequence listing pursuant to 37 CFR 1.821-1.825 was not submitted.

On 23 January 2003, applicants filed a Response to Notification of Defective Response indicating that the specification, claims or drawings did not disclose any nucleotide and/or amino acid sequences and requesting withdrawal of the requirement.

DISCUSSION

A review of the application file reveals that all of the 35 U.S.C. 371 requirements have been met, upon submission of the executed declaration on 14 August 2002.

The Notice of Defective Response (FORM PCT/DO/EO/916) mailed on 10 January 2003 was erroneously issued and will be vacated.

CONCLUSION

The Notice of Defective Response (FORM PCT/DO/EO/916) mailed on 10 January 2003 is hereby **VACATED**.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is **14 August 2002.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

CMK:cmk

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Facsimile: (703) 308-6459

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NEW YORK, NY 10008-0770

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AUG 15 2007

OFFICE OF PETITIONS

In re Application of :
PETERS, Dirk :
Application No. 10/070,344 : DECISION ON PETITION
Filed: January 13, 2003 : TO WITHDRAW
Attorney Docket No. **3442/1H674US2** : 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 18, 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 the attorneys withdrawing by customer number must have been appointed by the same customer number. The attorneys of DARBY & DARBY PC were originally appointed individually by the oath/declaration filed February 28, 2002 and re-submitted January 13, 2003.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ERIC WEISS**
TWO DATA CENTER
S. DADELAND BOULEVARD, SUITE 1602
PINECREST, FL 33156

MAY 03 2002

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Caesar, Rivise, Bernstein, Cohen & Pokotilow, Ltd.
Seven Penn Center, 12th Floor
1635 Market Street
Philadelphia, PA 19103-2212

In re Application of	
FARRELL, Christopher John	DECISION ON
Application No.: 10/070,349	
PCT Application No.: PCT/AU99/00840	PETITION
International Filing Date: 29 September 1999	
Priority Date: 16 December 1998	UNDER 37 CFR 1.137(b)
Attorney Docket No.: P1096/20003	
For: ORAL APPLIANCE	

Applicant's "Petition To Revive Unintentionally Abandoned Application Under 37 CFR 1.17(m)," filed in the United States Patent and Trademark Office on 28 February 2002 has been treated as a petition under 37 CFR 1.137(b). Petition is **GRANTED**.

BACKGROUND

On 29 September 1999, applicant filed an international application, PCT/AU99/00840, which claimed a priority date of 16 December 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) by the International Bureau on 22 June 2000. A demand for international preliminary examination was filed on 23 May 2000, prior to the expiration of nineteen months from the priority date. The thirty month period for entering the national stage in the United States expired at midnight on 18 June 2001 (16 June 2001 was a Saturday).

On 28 February 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, a petition to revive, payment of the petition fee and payment of 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).

Applicant's statement that "the entire period of abandonment through the date of this reply was unintentional," is construed to mean that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). If this is not a correct interpretation, applicant must notify the PCT Legal Office immediately. The petition fee and basic national fee have been submitted. 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 (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for filing the oath or declaration after thirty months are required.

Boris Milef
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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28 SEP 2006

Martin D. MOYNIHAN
PRTSI, Inc.
P.O. Box 16446
Arlington VA 22215

In re Application of :
KLEINBERGER *et al* :
U.S. Application No.: 10/070,355 :
PCT No.: PCT/IL00/00534 :
Int. Filing Date: 05 September 2000 : **DECISION**
Priority Date: 07 September 1999 :
Attorney's Docket No.: 02/23506 :
For: SYSTEMS AND METHODS OF THREE :
DIMENSIONAL VIEWING :

This decision is in response to applicants' petition under 37 CFR 1.78(a)(3) and (a)(6) filed on 31 July 2006.

The petition is **dismissed** as moot for the reasons stated below.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and (a)(6) is only applicable to those applications filed on or after November 29, 2000.

37 CFR 1.78(a)(2)(ii) and (a)(5)(ii) indicates that the time periods set forth therein do not apply if the later-filed application is: (1) an application for a design patent; (2) an application filed under 35 U.S.C. § 111(a) before November 29, 2000; and (3) **a nonprovisional application which entered the national stage after compliance with 35 U.S.C. § 371 from an international application filed under 35 U.S.C. § 363 before November 29, 2000.**

Since the instant nonprovisional application is the national stage entry of an international application filed prior **to** November 29, 2000, the provisions of 37 CFR 1.78(a)(3) and (a)(6) for acceptance of a late claim for priority do not apply to the subject nonprovisional application. Accordingly, the petition is dismissed as involving a moot issue.

It is also noted that section 1893.03(b) of the MPEP states:

> An international application designating the U.S. has two stages (international and national) with the filing date being the same in both stages. Often the date of entry into the national stage is confused with the filing date. It should be borne in mind that the filing date of the

international stage application is also the filing date for the national stage application.

U.S. application No. 09/987,793 was filed after the filing date of the subject application and as such, cannot be made a Continuation-In-Part of the present national stage application.

The petition fee of $1,370 has been credited back to Deposit Account No. 50-1407.

This application is being forwarded to Art Unit 2866 for further processing.

Boris Milef
PCT Legal Examiner
PCT Legal Office

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

Adjustment Date: 10/04/2006 SBASHEIR
08/02/2006 HALI11 00000117 501407 10070355
01 FC:1454 1370.00 CR

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WASHINGTON, D.C. 20231
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Christopher J. Fildes
Fildes & Outland
20916 Mack Avenue, Suite 2
Gross Pointe Woods, MI 48236

In re Application of :
ESKELINEN, Ilkka et al. : DECISION ON
Application No.: 10/070,409 :
PCT Application No.: PCT/FI00/00768 : PETITION
International Filing Date: 12 September 2000 :
Priority Date: 14 September 1999 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: 11001.090 :
For: DOCTOR UNIT IN PAPER MACHINE :

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 24 April 2002 is **GRANTED**.

BACKGROUND

On 12 September 2000, applicants filed an international application, PCT/FI00/00768, which claimed a priority date of 14 September 1999. A demand for international preliminary examination was filed on 23 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office on 22 March 2001. The thirty month period for entering the national stage in the United States expired at midnight on 14 March 2002.

On 06 March 2002, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, a check in the amount of $890.

On 19 April 2002, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to pay the basic national fee by thirty months.

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' explanation of the abandonment is construed to mean that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). If this is not a correct interpretation, applicants must notify the Office immediately. The basic national fee and petition fee have been

submitted. A terminal disclaimer is not required as application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

The application has an international filing date of 12 September 2000 under 35 U.S.C. §363 and a date of 06 March 2002 under 35 U.S.C. §371. This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
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APR 14 2006

OFFICE OF PETITIONS

In re Application of Eskelinen et al. :
Application No. 10/070,409 : Decision on Petition
Filing Date: March 6, 2002 :
Attorney Docket No. 11001.090 :

This is a decision on the petition under 37 CFR 1.181, filed February 8, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

The above-identified application was deemed abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed August 17, 2005, which set a statutory period for reply of three (3) months. The above-identified application became abandoned on November 18, 2005. A Notice of Abandonment was mailed on January 25, 2006.

Petitioner contends the Notice of Allowance was never received and has provided a satisfactory showing of non-receipt.

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

Technology Center Art Unit 1731 will be informed of the instant decision. The examiner will remail the August 17, 2005 papers, and the time period for response will be based on the new mailing date.

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 Patent No. 6,881,564 :
Issued: April 19, 2005 :
Application No. 10/070,464 : DECISION REGARDING PTA
Filed: July 18, 2002 :
Atty. Dkt. No.: GH-007 :

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed May 12, 2005. This petition is being treated as timely filed under 37 CFR 1.705(d).

The request for reconsideration of patent term adjustment ("PTA") under 37 CFR 1.705(d) is **DISMISSED**.

The instant application issued as U.S. Pat. No. 6,881,564 on April 19, 2005 with a PTA of 163 days. The instant application for PTA was timely filed May 12, 2005. Applicants argue that the application should have been accorded a PTA of 283 days on the grounds that there was no failure by applicants to engage in reasonable efforts to conclude prosecution.

A review of the application history reveals that an adjustment of 283 days under 37 CFR 1.702(a)(4) was attributed to the Office. In accordance with 37 CFR 1.703(a)(4), the adjustment began June 11, 2004, the day after the date that is 4 months from the date upon which the issue fee was paid, and ended April 19, 2005, the date of issuance of the patent.

The adjustment was properly reduced 120 days in accordance with 37 CFR 1.704(c)(10) in connection with a Rule 312 amendment submitted March 10, 2004.

Applicants argue that the adjustment of 283 days was improperly reduced 120 days with respect to the Rule 312 amendment submitted March 10, 2004. Applicants argue that the submission of the Rule 312 amendment was necessitated by typographical errors appearing in the Notice of Allowance mailed December 10, 2003.

While it is noted that submission of a request to correct an error or omission in the Notice of Allowance or Notice of Allowability is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application within the meaning of 37 CFR 1.704(c)(10). *See*, MPEP 2732. *See*, also, *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), submission of an amendment under 37 CFR 1.312 does constitute a failure to engage in reasonable efforts to conclude prosecution (or processing) of an application, particularly in view of the fact that rather than submitting an amendment under 37 CFR 1.312, which causes delays in the patent issuance process, a letter noting the error complained could have been submitted prior to issuance of the patent, or, the error complained of could have been corrected by way of post issuance certificate of correction.

Accordingly, the patent is entitled to an adjustment of 163 days as indicated on the patent.

The Office acknowledges receipt of the required application fee of $200.00.

Any request for reconsideration of this decision must be submitted within TWO MONTHS of the mail date indicated above. Extensions of time for reconsideration under 37 CFR 1.136 will not be permitted.

Telephone inquiries specific to this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3202.

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

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JUN 21 2007

OFFICE OF PETITIONS

In re Patent No. 6,881,564 :
Issued: April 19, 2005 :
Application No. 10/070,464 : DECISION REGARDING PTA
Filed: July 18, 2002 :
Atty. Dkt. No.: GH-007 :

This decision is in response to the "REQUEST FOR RECONSIDERATION OF DECISION REGARDING PATENT TERM ADJUSTMENT," filed August 21, 2006. This petition is being treated as timely filed under 37 CFR 1.705(d).

The request for reconsideration of patent term adjustment ("PTA") under 37 CFR 1.705(d) is **DISMISSED**.

The instant application issued as U.S. Pat. No. 6,881,564 on April 19, 2005 with a PTA of 163 days. The instant application for PTA was timely filed May 12, 2005. Applicants argue that the application should have been accorded a PTA of 283 days on the grounds that there was no failure by applicants to engage in reasonable efforts to conclude prosecution.

A review of the application history reveals that an adjustment of 283 days under 37 CFR 1.702(a)(4) was attributed to the Office. In accordance with 37 CFR 1.703(a)(4), the adjustment began June 11, 2004, the day after the date that is 4 months from the date upon which the issue fee was paid, and ended April 19, 2005, the date of issuance of the patent.

The adjustment was properly reduced 120 days in accordance with 37 CFR 1.704(c)(10) in connection with a Rule 312 amendment submitted March 10, 2004.

Applicants argue that the adjustment of 283 days was improperly reduced 120 days with respect to the Rule 312 amendment submitted March 10, 2004. Applicants continue to argue that the submission of the Rule 312 amendment was necessitated by typographical errors appearing in the Notice of Allowance mailed December 10, 2003.

Submission of a request to correct an error or omission in the Notice of Allowance or Notice of Allowability is not considered a failure to engage in reasonable efforts to conclude processing or

examination of an application within the meaning of 37 CFR 1.704(c)(10). *See*, MPEP 2732. *See*, also, *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).

Submission of an amendment under 37 CFR 1.312 constitutes a failure to engage in reasonable efforts to conclude prosecution (or processing) of an application. Moreover, rather than submitting an amendment under 37 CFR 1.312, which causes delays in the patent issuance process, a letter noting the error complained could have been submitted prior to issuance of the patent, or, the error complained of could have been corrected by way of post issuance certificate of correction.

Patentees elected instead to submit an amendment under Rule 312, the consequence of which is an automatic reduction under 37 CFR 1.704(c)(10).

As to patentees' argument that the Examiner's Amendment included in the Notice of Allowability "invited the applicants to file a Rule 312 Amendment should the changes and/or additions be unacceptable," petitioners are again reminded that any amendment submitted pursuant to 37 CFR 1.312 is deemed a failure to engage in reasonable efforts to conclude prosecution within the meaning of 37 CFR 1.704. Further, the amendment was not specifically requested by the examiner, but merely gave applicants the option of submitting an amendment under 37 CFR 1.312.

Accordingly, the patent is entitled to an adjustment of 163 days, as indicated on the patent.

Any request for reconsideration of this decision must be submitted within TWO MONTHS of the mail date of this decision. Extensions of time under 37 CFR 1.136 are not available.

Telephone inquiries specific to this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3202.

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

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Paper No. 5

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OFFICE OF PETITIONS

In re Application of
Takagi Shigemasa
Application No. 10/070,493
Filed: March 7, 2002
Attorney Docket No. 01044/20004

NOTICE

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

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

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

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

This file is being forwarded to Technology Center 1700.

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

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OFFICE OF PETITIONS

In re Application of :
Peter Planki et al. :
Application No. 10/070,528 : ON PETITION
Filed: December 2, 2002 :
Attorney Docket No.: 2406400-2 :

This is a decision on the petition filed February 28, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed April 5, 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 6, 2005. Accordingly, a Notice of Abandonment was mailed November 30, 2005.

This matter is being referred to Technology Center 2114 for appropriate action on the amendment filed February 28, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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Paper No. 9

Robert J. Schneider
Chapman and Cutler
111 West Monroe Street, 16th Floor
Chicago, IL 60603

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OFFICE OF PETITIONS

In re Application of	:	
Edlinger, Alfred	:	
Application No. 10/070,529	:	ON PETITION
Filed: March 6, 2002	:	
Attorney Docket No. 1712942	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 22, 2004, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 3, 2003, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on August 4, 2003.

The application file is being forwarded to Technology Center AU 1742 for further processing.

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

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

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APR 29 2005

ROSANNE GOODMAN
WARNER LAMBERT COMPANY
2800 PLYMOUTH ROAD
ANN ARBOR MI 48105

In re Application of	:	
William A. Denny et al	:	
Serial No.: 10/070,530	:	PETITION DECISION
Filed: March 6, 2002	:	
Attorney Docket No.: 5966-01	:	

BEST AVAILABLE COPY

This is in response to the petition under 37 CFR 1.181, filed June 24, 2004, requesting withdrawal of abandonment based non-receipt of an Office action. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed an Office action to applicants on July 8, 2003, setting a one month shortened statutory period for reply. Applicants replied on October 8, 2003, including a two month extension of time and fee therefor, however the response was deemed informal in that status identifiers for each claim were not included. A Notice of Informal Amendment was mailed to applicants on October 16, 2003, setting a one month time period for reply. Upon failure to receive a reply a Notice of Abandonment was mailed to applicants on June 2, 2004. Applicants state that the Office action was never received and provide statements and copies of docket records establishing that no communications for this application were received. In view of the evidence and statements presented it is concluded that the Office action was not received. As a consequence the Notice of Abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

Inasmuch as applicants have provided a new copy of the claim amendments with proper identifiers with the petition, the application will be forwarded to the examiner for 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

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MAY 03 2004

OFFICE OF PETITIONS

Applicant: Beens
Appl. No.: 10/070,544
Filing Date: April 16, 2002
Title: MODULATOR FOR GAS CHROMATOGRAPHY
Attorney Docket No.: 3687-24
Pub. No.: US 2003/0100124 A1
Pub. Date: May 29, 2003

This is in response to the request for republication of patent application publication under 37 CFR 1.221(a), which was filed on November 24, 2003.

The request is DISMISSED.

The instant request is that the application be republished with the assignee information and for the PCT information to be changed from "PCT/IB00/02253" to "PCT/IB01/02253".

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a).

The assignment information has been added to the Office's electronic records. The assignment information was not printed on the patent application publication, because it was not provided on the transmittal letter or on an application data sheet.[1] The Office prints the assignee information as reflected on the transmittal letter or application data sheet, if provided by applicant and does not look at the assignment records for the assignment information. With respect to the change in the PCT information requested by applicant, the Office records indicate that this application is the National stage of PCT/IB00/02253.

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

Applicant paid the publication fee set forth in § 1.18(d) ($300) and the processing fee set forth in § 1.17(i)($130.00). The publication fee ($300.00) submitted will be refunded to applicants Deposit Account No 14-1140, and the $130.00 processing fee set forth in 37 CFR 1.17(i) will be retained.

Any request for reconsideration of this decision, should be addressed as follows:

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

By facsimile: 703-872-9306

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

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

Enclosure: Replacement Filing Receipt

#13

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John K. McDonald
Kilpatrick Stockton LLP
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309-4530

In re Application of
LIANG, Hong, et al.
Application No.: 10/070,560
PCT No.: PCT/US00/25166
Int. Filing Date: 14 September 2000
Priority Date: 14 September 1999
Attorney Docket No.: 05213-0551US
For: METHOD OF PRODUCING AND PURIFYING ENDOSTATIN™ PROTEIN

DECISION ON

PETITION UNDER

37 CFR 1.47(a)

This is a decision on applicants' "Petition Under 37 C.F.R. §1.47(a) For an Uncooperative Inventor," filed in the United States Patent and Trademark Office (USPTO) on 17 September 2002.

BACKGROUND

On 14 September 2000, applicants filed international application PCT/US00/25166. A Demand for international preliminary examination, in which the United States was elected, was filed on 16 April 2001, within 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 March 2002.

On 08 March 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 12 June 2002, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 17 September 2002, applicants submitted the instant petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant

Items (1) and (3) have not been met. (1) The petition fee has been paid. (3) The petition lists the last known address of non-signing inventor Lourdes Bermejo as 112 Durston Loop, Morrisville, NC 27560.

Item (2) has not been satisfied. Applicants claim that Ms. Bermejo has refused to sign the declaration. However, applicants have neither established that they have located Ms. Bermejo, nor that they presented her with a complete copy of the application papers. MPEP 409.03(d). The letter addressed to Ms. Bermejo does not indicate that a complete copy of the application was enclosed and the Fedex package was returned with Ms. Bermejo listed as "not in".

Further, the statement of facts should detail the efforts to locate Ms. Bermejo and her refusal. Instead it indicates that Ms. Bermejo's former employer was repeatedly asked to locate her. "The statement must be signed where at all possible by a person having firsthand knowledge of the facts recited therein." MPEP §409.03(d).

Item (4) has not been satisfied. Inventor Zhou is listed as "Xinhau Zhou" on the international application, but as "Xinhua Zhou" on the declaration executed by Inventor Zhou. Inventor Shepard is listed as Scott R. Shepard on the international application, but as "Scot R. Shepard" on the declaration. If these are typographical or transliteration errors, they can be corrected by a statement from the applicant. See MPEP 201.03.

CONCLUSION

For the above reasons, applicants' 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. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

20 JUL 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Soma Singadia Kulkarni
KILPATRICK STOCKTON LLP
Suite 2800
1100 Peachtree Street
Atlanta, Georgia 30309-4530

In re Application of	:	
Hong LIANG, et al.	:	
Application No.: 10/070,560	:	DECISION ON
PCT No.: PCT/US00/25166	:	PETITION
Int. Filing Date: 14 September 2000	:	UNDER 37 CFR 1.137(b)
Priority Date: 14 September 1999	:	
Attorney Docket No.: 05213-0551US(299447)	:	
For: METHOD OF PRODUCING AND	:	
PURIFYING ENDOSTATIN PROTEIN	:	

The petition to revive under 37 CFR 1.137(b) filed 25 April 2005 in the above-captioned application is hereby **GRANTED** as follows:

On 14 September 2000, applicants filed international application PCT/US00/25166, which claimed priority of an earlier US application filed 14 September 1999. The application became abandoned as to the national stage in the United States for failure to completely respond to the Notification of Missing Requirements issued by the Office on 12 June 2002.

On 25 April 2005, applicants filed the present petition, requesting revival of the international application under the provisions of 37 CFR 1.137(b) along with the appropriate petition fee as required by 37 CFR 1.17(m) for a small entity. The response in the form of a declaration of the inventors executed by Lourdes L. Bermejo in compliance with 37 CFR 1.497 was also submitted.

A review of the application papers filed 25 April 2005 reveals that all of the requirements of 37 CFR 1.137(b) for revival have been submitted. Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3) at the time of filing this petition.

Applicants' claim for priority is acknowledged. The application has an international filing date of **14 September 2000** under 35 U.S.C. 363 and a date of **25 April 2005** under 35 U.S.C. 371.

The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The application is being forwarded to the United States Designated/Elected Office for processing in accordance with this decision, that is, for issuance of a Notification of Acceptance of Application under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) and 37 CFR 1.495 (Form PCT/DO/ EO/903) and for preparation and mailing of a filing receipt.

Richard Cole
PCT Legal Examiner
PCT Legal Office

NNH/RC:hn

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

Tel: (571) 272-3290

UNITED STATES 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. 7031059
Issue Date: April 18,2006
Application No. 10070564
Filed: July 30,2002
Attorney Docket No. 3401-4035

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

This is a decision on the electronic petition, filed May 3,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 3,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
7031059	2006-04-18	10070564	2002-07-30	

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	/Benoit Castel/	Date (YYYY-MM-DD)	2010-05-03
Name	Benoit CASTEL	Registration Number	35041

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

Privacy Act Statement

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

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

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

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EDWARD A. MEILMAN
DICKSTEIN SHAPIRO MORIN & OSHINKSKY
1177 AVENUE OF THE AMERICAS
41ST FLOOR
NEW YORK NY 10036-2714

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MAY 27 2004

OFFICE OF PETITIONS

In re Application of :
Masamichi Ando et al :
Application No. 10/070,585 : ON PETITION
Filed: June 5, 2002 :
Attorney Docket No. P/1071-1556 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 9, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2819 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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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

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APR 18 2007

OFFICE OF PETITIONS

In re Application of :
Bohbot, et al. : DECISION ON PETITION
Application No. 10/070,626 :
Filed: July 10, 2002 :
Docket No.: 12378/1 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 20, 2007.

This application was held abandoned for failure to timely submit a proper reply to the non-final Office action mailed August 14, 2006. Notice of Abandonment was mailed February 21, 2007.

Petitioner asserts that a response to the non-final Office action and a petition for extension of time were timely mailed on February 14, 2007.

The original response, including petition for extension of time, bearing a certificate of mailing date of February 14, 2007, was received February 21, 2007 and has been located in the application file. Accordingly, in view of the certificate of mailing under 37 CFR 1.8, the reply is deemed timely submitted.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to the Technology Center 2800 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

#17

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JUN 15 2004

Office of the Director
Group 3600

Friedrich Kueffner
317 Madison Avenue
Suite 910
New York NY 10017

In re Application of
Jean Kaufmann et al.
Application No. 10/070,648
Filed: July 23, 2002
For: SNAFFLE BIT

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on April 26, 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 _____.
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 November 6, 2003 has been found and matched with the application.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response and then to the examiner for prompt action.

RAR/mjz: 6/7/04

Randolph A. Reese
Special Programs Examiner
Group 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FRIEDRICK KUEFFNER
317 MADISON AVENUE, SUITE 910
NEW YORK, NY 10017

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AUG 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Elmar Korbik et al :
Application No. 10/070,650 : ON PETITION
Filed: June 11, 2002 :
Attorney Docket No. HM-473PCT :

This is a decision on the petition under 37 CFR 1.137(b), filed May 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 non-final Office action mailed June 17, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 18, 2003.

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

The application is being forwarded to Technology Center AU 1742 for further processing.

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

DTO[illegible]c'd PCT/PTO 05 AUG 2002

#5

PATENT
ATTORNEY DOCKET NO. 50146/003002

Certificate of Mailing Date of Deposit: July 30, 2002

I hereby certify under 37 C.F.R. § 1.8(a) that this correspondence is being deposited with the United States Postal Service as **"first class mail"** with sufficient postage on the date indicated above and is addressed to: BOX PCT, Assistant Commissioner for Patents, Washington, D.C. 20231.

Rosemarie Perullo — Printed name of person mailing correspondence

Rosemarie Perullo — Signature of person mailing correspondence

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Bruno Tocque et al.	Art Unit:	Not Assigned Yet
Serial No.:	10/070,676	Examiner:	Not Assigned Yet
Filed:	March 6, 2002	Customer No:	21559
Title:	GENETIC MARKERS OF TOXICITY, PREPARATION AND USES		

BOX PCT
Assistant Commissioner for Patents
Washington, D.C. 20231

REPLY TO NOTIFICATION OF MISSING REQUIREMENTS

In reply to the Notification of Missing Requirements mailed June 4, 2002 (a copy of which is enclosed), Applicant, as a large entity, submits the following:

- ☒ A Combined Declaration and Power of Attorney in compliance with 37 C.F.R. § 1.497(a) and (b), identifying the application by the international application number and international filing date.
- ☒ A check in the amount of $130.00 for the surcharge fee as required by 37 C.F.R. 1.492(e) is enclosed.

08/09/2002 ATRAN1 00000017 10070676
01 FC:154 130.00 OP

If there are any charges, or any credits related to this application, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

Date: July 30, 2002

Kristina Bieker-Brady, Ph.D.
Reg. No.39,109

Clark & Elbing LLP
101 Federal Street
Boston, MA 02110
Telephone: 617-428-0200
Facsimile: 617-428-7045

21559
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WENDEROTH LIND & PONACK
2033 K STREET N.W.
SUITE 800
WASHINGTON, DC 20006-1021

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MAR 2 1 2005

OFFICE OF PETITIONS

In re Patent No. 6,777,051 :
Issue Date: August 17, 2004 :
Application No. 10/070,686 : ON PETITION
Filed: March 8, 2002 :
Attorney Docket No. 2002-0335A :

This is a decision on the petition filed February 18, 2005, which is being treated as a petition under 37 CFR 3.81(b)[1] to accept the correction of the assignee on the front page of the above-identified patent.

The petition is granted.

Telephone inquiries concerning this matter may be directed to Wan Laymon at (571) 272-3220. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

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

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

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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MAY 11 2006

OFFICE OF PETITIONS

In re Patent of :
Viarouge, et al. :
Patent No. 6,879,237 :
Issue Date: April 12, 2005 :
Application No. 10/070,750 :
Filing Date: July 19, 2002 :
Attorney Docket No. 01143.006000 :

Decision on Petition

This is a decision on the petition under 37 CFR § 1.183, filed March 6, 2006, to waive the rules and accept the correction of the assignee data on the front page of the above-identified patent. The petition is also being treated as a request under 37 CFR 3.81 to accept the correction of the assignee data.

The petition under 37 CFR 1.183 is **dismissed as moot.**

The request under 37 CFR 3.81 is **dismissed**.

Effective June 25, 2004, 37 CFR 3.81(b) has been revised to no longer require the correction of the assignee data prior to issuance of the patent. Therefore, a petition to waive the rule is unnecessary. 37 CFR 3.81(b) currently states:

> Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,

(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Petitioners have not met the requirements set forth above because despite the fact that petitioners stated the petition fee will be addressed in the conclusion section below, there was no mention of the petition fee. In addition, the Certificate of Correction fee has not been authorized or paid. Therefore, the request is dismissed.

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

By mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

The file is being forwarded to Files Repository.

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

E. Shirene Willis
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

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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JAN 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Chaddock et al.	:	
Application No. 10/070764	:	DECISION
Filing or 371(c) Date: 03/12/2002	:	ON PETITION
Patent No.: 7193066	:	
Issue Date: 03/20/2007	:	
Attorney Docket Number:	:	
1581.0900000/RWE/MTT	:	

This is a decision on the correspondence entitled "Request for Certificate of Correction Under 37 CFR 1.323," filed November 7, 2007, 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 properly treated as a petition under 37 CFR 3.81(b)[1].

The Petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Applicant files the instant petition and requests correction of the assignee name from "The Health Protection Agency" to "Health Protection Agency".

Applicable Law, Rules and MPEP

37 CFR 3.81(b) provides:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17 (i) of this chapter. (Emphasis supplied).

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

Analysis and conclusion

A review of the recorded assignment reveals that the name of the assignee appearing thereon is "The Health Protection Agency." The name of the assignee that appeared on the printed patent, The Health Protection Agency, was the name of the assignee on the assignment recorded with this Office. Applicant petitions to change the name of the assignee from that which appears on the recorded assignment, however, 37 CFR 3.81(b) provides for correction of the patent "to state the name of the assignee" as it appears on the recorded assignment.

The petition is dismissed as inappropriate.

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

By mail:	Director for Patents PO 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 concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SYNGENTA CROP PROTECTION , INC.
PATENT AND TRADEMARK DEPARTMENT
410 SWING ROAD
GREENSBORO, NC 27409

Mail Date: 04/20/2010

Applicant	: Thomas Maetzke	: DECISION ON REQUEST FOR
Patent Number	: 6894005	: RECALCULATION of PATENT
Issue Date	: 05/17/2005	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/070,767	: OF WYETH
Filed	: 06/25/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,777	07/22/2002	Linda A. Young	112701-339	9676

29157 7590 02/16/2005

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

EXAMINER	
SAYALA, CHHAYA D	

ART UNIT	PAPER NUMBER
1761	

DATE MAILED: 02/16/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 15 2005

In re Application of	:	
Linda A. Young	:	NOTICE OF WITHDRAWAL
Serial No. 10/070,777	:	FROM ISSUE
Filed: July 22, 2002	:	UNDER 37 CFR 1.313(b)
For: CONDITION OF ELDERLY PETS	:	

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 Milton Cano at (571) 272-1398.

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

BELL, BOYD & LLOYD, LLC.
P. O. Box 1135
Chicago, IL 60690-1135

MAY 0 2 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

McDermott, Will & Emery
600 13th Street, N.W.
Washington, DC 20005-3096

In re Application of	:	
KAWASE, Ritsu et al.	:	
Application No.: 10/070,779	:	DECISION ON
PCT No.: PCT/JP99/06274	:	
Int. Filing Date: 11 November 1999	:	PETITION
Priority Date: 11 November 1998	:	
Attorney Docket No.: 50233-093	:	UNDER 37 CFR 1.181
For: OPTICAL CONNECTING COMPONENT	:	

This decision is in response to applicants' "Petition Under 37 CFR 1.181," filed on 01 February 2002. No petition fee is due.

BACKGROUND

On 11 November 1999, applicants filed international application PCT/JP99/06274. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 18 May 2000. A demand for international preliminary examination was filed 11 November 1999, prior to the expiration of nineteen months from the priority date. The deadline for entry into the national stage in the United States was thirty months from the priority date, or 11 May 2001.

On 01 February 2002, applicants filed the instant petition under 37 CFR 1.181, accompanied by, *inter alia*, a postcard receipt, a specification and a declaration.

DISCUSSION

MPEP at section 503 states, in part:

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

The postcard receipt lists, *inter alia*, "New Patent App ... PCT ... 92 pages of Specification, 6 pages of Claims," recordation of patent, combined declaration/power of attorney and the fees. The postcard receipt is date stamped and indicated the applicant and the title of the application. The postcard receipt is not annotated to indicate that any of the items were not received.

The postcard receipt is adequate evidence that the patent application and declaration were received on 09 May 2001.

The petition states that the papers are "one true, complete copy of the documents submitted to enter the national stage" and the statement is signed by someone registered to practice before the office.

Applicants were charged $130 for filing this petition, but there is no charge for a petition under 37 CFR 1.181. The $130 will be credited to deposit account no. 50-0417, as authorized by the transmittal letter. Additionally, the difference between the fees applicable on 09 May 2001 and on 01 February 2002 will be credited to deposit account no. 50-0417.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The 35 U.S.C. §371(c) date is 09 May 2001.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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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Oppedahl Patent Law Firm LLC - Frei
P O Box 5940
Dillon, CO 80435-5940

Mail Date: 04/20/2010

Applicant	: Klaus Ulrich Klosa	: DECISION ON REQUEST FOR
Patent Number	: 7631187	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/070,786	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/16/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1013** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 6

CAESAR RIVISE BERNSTEIN COHEN & POKOTILOW
12TH FLOOR - SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

COPY MAILED

SEP 0 9 2002

OFFICE OF PETITIONS

In re Application of :
Friedrich Lipp :
Application No. 10/070,795 :
Filed: March 8, 2002 :
Attorney Docket No. M1211/20001 :

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 2600.

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

15 JUL 20

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Oblon, Spivak, McClelland,
Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of :
Ponceau et al. :
US Application No.: 10/070,816 :
PCT Application No.: PCT/FR00/02483 :
International Filing Date: 08 September 2000 : DECISION ON PETITION
Priority Date: 10 September 1999 : UNDER 37 CFR 1.181
Attorney's Docket No.: 219898US6XPCT :
For: ASSISTING DEVICE FOR UNFOLDING :
A MOTOR VEHICLE INFLATABLE :
AIRBAG :

This decision is in response to the "Petition under 37 CFR 1.181 to Withdraw Holding of Abandonment" filed on 26 November 2002.

BACKGROUND

On 10 May 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905), advising Applicants that the extra claims fees and an oath/declaration in compliance with 37 CFR 1.497(a) and (b) were required. An extendable 2-month reply period was provided. No response was filed on or before 10 December 2002, and no extension of time in accordance with 37 CFR 1.136(a) was obtained. The application was held abandoned as of 11 July 2002. A Notice of Abandonment (Form PCT/DO/EO/909) was mailed on 15 November 2002.

The instant petition asserts that the missing items were filed on 12 November 2002 along with a 4-month extension of time and the requisite extension-of-time fee.

ANALYSIS

The USPTO records indicate receipt on 12 November 2002 of, *inter alia*, a $1,440 check for the 4-month extension of time; and a declaration and power of attorney executed by both inventors. Apparently, these items were not matched with the file until recently.

CONCLUSION

In view of the above, the petition to withdraw the holding of abandonment in this application is **GRANTED.**

The Form PCT/DO/EO/909 mailed on 15 November 2002 is hereby **VACATED.**

However, the declaration submitted on 12 November 2002 appears to have been altered after execution. The signature of the second inventor, in black ink, is in the wrong location and is adjacent to an arrow, in blue ink, pointing to the correct location for that signature. This alteration is not initialed and dated by the second inventor, rendering the declaration defective and unacceptable. 37 CFR 1.52(c)(1); MPEP 605.04(a) (Rev. 1, Feb. 2003).

To avoid abandonment of this application, a supplemental declaration in compliance with 37 CFR 1.497(a) and (b) must be filed within **ONE MONTH** of the mailing date of this decision.

Finally, the $130 petition fee submitted with the instant petition has been credited to Deposit Account No. 15-0030 as authorized.

Any further correspondence with respect to this matter, deposited with the United States Postal Service, should be addressed to:

Mail Stop PCT
Commissioner for Patents
Office of PCT Legal Administration
PO Box 1450
Alexandria, VA 22313-1450

Boris Milef
PCT Legal Examiner
PCT Legal Office

RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

Rec'd PCT/PTO 09 OCT 2003

DOCKET NO.: 219898US6XPCT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Philippe PONCEAU et al.

SERIAL NUMBER: 10/070,816

FILED: March 11, 2002

FOR: ASSISTING DEVICE FOR UNFOLDING A MOTOR VEHICLE INFLATABLE AIRBAG

RESPONSE TO DECISION ON PETITION UNDER 37 CFR 1.181

COMMISSIONER FOR PATENTS
Alexandria, VA 22313

SIR:

Responsive to the decision dated July 15, 2003 and in accordance with the provisions of 35 U.S.C. 371, Applicants submit herewith a Supplemental Declaration, along with a Petition for Extension of Time.

In light of the foregoing, this application is deemed to be in proper condition for examination and such favorable action is earnestly solicited.

Our check in the amount of $420.00 is attached hereto. If any variance exists between the amount enclosed and the required Government fee, please charge or credit the difference to our Deposit Account No. 15-0030. A duplicate copy of this sheet is enclosed.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. §1.136 and any additional fees required under 37 C.F.R. §1.136 for any necessary extension of time may be charged to Deposit Account No. 15-0030. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

10/10/2003 JKURTZ1 00000008 10070816
01 FC:1252 420.00 OP

Gregory J. Maier
Attorney of Record
Registration No. 25,599
Surinder Sachar
Registration No. 34,423

Customer No. 22850
(703) 413-3000

15 JUL 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Oblon, Spivak, McClelland,
Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

RECEIVED: 7/17/03
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 7/17/03
Type of Resp(s): Suppl Dept Due
Due Date(s): 8/15/03 (Non-Ext)

In re Application of
Ponceau et al.
US Application No.: 10/070,816
PCT Application No.: PCT/FR00/02483
International Filing Date: 08 September 2000
Priority Date: 10 September 1999
Attorney's Docket No.: 219898US6XPCT
For: ASSISTING DEVICE FOR UNFOLDING A MOTOR VEHICLE INFLATABLE AIRBAG

DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to the "Petition under 37 CFR 1.181 to Withdraw Holding of Abandonment" filed on 26 November 2002.

BACKGROUND

On 10 May 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905), advising Applicants that the extra claims fees and an oath/declaration in compliance with 37 CFR 1.497(a) and (b) were required. An extendable 2-month reply period was provided. No response was filed on or before 10 December 2002, and no extension of time in accordance with 37 CFR 1.136(a) was obtained. The application was held abandoned as of 11 July 2002. A Notice of Abandonment (Form PCT/DO/EO/909) was mailed on 15 November 2002.

The instant petition asserts that the missing items were filed on 12 November 2002 along with a 4-month extension of time and the requisite extension-of-time fee.

ANALYSIS

The USPTO records indicate receipt on 12 November 2002 of, *inter alia*, a $1,440 check for the 4-month extension of time; and a declaration and power of attorney executed by both inventors. Apparently, these items were not matched with the file until recently.

COPY

CONCLUSION

In view of the above, the petition to withdraw the holding of abandonment in this application is **GRANTED.**

The Form PCT/DO/EO/909 mailed on 15 November 2002 is hereby **VACATED.**

However, the declaration submitted on 12 November 2002 appears to have been altered after execution. The signature of the second inventor, in black ink, is in the wrong location and is adjacent to an arrow, in blue ink, pointing to the correct location for that signature. This alteration is not initialed and dated by the second inventor, rendering the declaration defective and unacceptable. 37 CFR 1.52(c)(1); MPEP 605.04(a) (Rev. 1, Feb. 2003).

To avoid abandonment of this application, a supplemental declaration in compliance with 37 CFR 1.497(a) and (b) must be filed within **ONE MONTH** of the mailing date of this decision.

Finally, the $130 petition fee submitted with the instant petition has been credited to Deposit Account No. 15-0030 as authorized.

Any further correspondence with respect to this matter, deposited with the United States Postal Service, should be addressed to:

Mail Stop PCT
Commissioner for Patents
Office of PCT Legal Administration
PO Box 1450
Alexandria, VA 22313-1450

Boris Milef
PCT Legal Examiner
PCT Legal Office

RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

Pet Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed: JUN 21 2004

BC
Paper Number:

In re application of :
Friedrich Sosna et al. : DECISION ON
Serial No. 10/070,817 : PETITION
Filed: March 11, 2002 :
For: MICROBICIDAL ADDITIVES :

This is a decision on the PETITION UNDER 37 CFR 1.181 TO CONSIDER THE COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE AND TO INDICATE CONSIDERATION OF THE INFORMATION DISCLOSURE STATEMENTS OF MARCH 11, 2002 AND MAY 6, 2002. The instant petition under 37 CFR 1.181 was timely filed to formally request the consideration of the enclosed Comments on Statement of Reasons for Allowance. Additionally, it is requested that the office indicate consideration of the information disclosure statements of March 11, 2002 and May 6, 2002 that were previously filed.

DECISION

MPEP 1302.14 infers that "Comments on the Statement of Reasons for Allowance" are considered to be comments from the applicant concerning the agreement or disagreement of the examiner's reasons for allowance statement. The Petition on the grounds to consider Comments on the Statement of Reasons for Allowance cannot be granted, since the Petition does not contain any comments regarding the reasons for allowance. This issue of the present Petition is **DISMISSED**.

As to the information disclosure statements, which were timely filed on March 11, 2002 and May 6, 2002, these information disclosure statements were fully considered by the examiner and an initialed copy of each PTO-1449 mailed to the applicants on March 15, 2004. Accordingly, this issue of the Petition is **DISMISSED**.

This Petition is **DISMISSED**.

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

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

Attachments: initialed copies of the PTO-1449s submitted on 3/11/02 and 5/6/02

19 JUN 2003
UNITED STATES PATENT AND TRADEMARK OFFICE

#6

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

Knobbe, Martens, Olson & Bear LLP
620 Newport Center Drive
Sixteenth Floor
Newport Beach, CA 92660

#6

In re Application of :
HAMILTON, Colin Henry, et al. :
Application No.: 10/070,870 :
PCT No.: PCT/AU00/01052 : DECISION ON
Int. Filing Date: 04 September 2000 :
Priority Date: 02 September 1999 : PETITION UNDER
Attorney Docket No.: DUMME18.001APC :
For: DISPENSING SACHET BY BENDING AND METHOD OF SACHET MANUFACTURE : 37 CFR 1.47(a)

This is a decision on applicants' response to the Notification of Missing Requirements filed in the United States Patent and Trademark Office (USPTO) on 14 November 2002. It has been treated as a petition under 37 CFR 1.47(a).

BACKGROUND

On 04 September 2000, applicants filed international application PCT/AU00/01052, which claimed a priority date of 02 September 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 15 March 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 26 March 2001, within 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 March 2002 (02 March 2002 was a Saturday).

On 04 March 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 07 May 2002, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 14 November 2002, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a petition for a four-month extension of time; the fee for a four-month extension of time; a declaration of inventorship and a statement of facts.

06/26/2003 GFREY1 00000004 111410 10070870
01 FC:1460 130.00 DA

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant

Items (1), (2) and (4) have been met. The required fee will be charged to deposit account no. 11-1410, as authorized by the transmittal letter. The declaration of Rod Fallen sets forth the efforts to locate Mr. Colin Henry Hamilton. The declaration of inventorship complies with 37 CFR 1.497(a)-(b).

Item (3) has not been met. The petition does not state the last known address of Mr. Hamilton, the non-signing applicant.

CONCLUSION

For the above reasons, applicants' 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. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

03 MAY 2004

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Knobbe, Martens, Olson & Bear LLP
620 Newport Center Drive
Sixteenth Floor
Newport Beach, CA 92660

In re Application of
HAMILTON, Colin Henry, et al.
Application No.: 10/070,870
PCT No.: PCT/AU00/01052
Int. Filing Date: 04 September 2000
Priority Date: 02 September 1999
Attorney Docket No.: DUMME18.001APC
For: DISPENSING SACHET BY BENDING AND METHOD OF SACHET MANUFACTURE

DECISION ON

PETITION UNDER

37 CFR 1.47(a)

This is a decision on applicants' "Renewed Petition Under 37 CFR 1.47(a)," filed in the United States Patent and Trademark Office (USPTO) on 21 November 2003.

BACKGROUND

On 04 September 2000, applicants filed international application PCT/AU00/01052, which claimed a priority date of 02 September 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 15 March 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 26 March 2001, within 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 March 2002 (02 March 2002 was a Saturday).

On 04 March 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 07 May 2002, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 14 November 2002, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a petition for a four-month extension of time; the fee for a four-month extension of time; a declaration of inventorship and a statement of facts.

On 19 June 2003, the Office mailed Decision On Petition Under 37 CFR 1.47(a) dismissing applicants' petition without prejudice.

On 21 November 2003, applicants submitted the instant renewed petition accompanied by the fee for a three month extension of time and a certificate of first class mailing indicating that the submission was deposited on 19 November 2003.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant

Items (1), (2) and (4) were previously satisfied.

Item (3) has now been satisfied. The last known address of Mr. Colin Henry Hamilton is listed as 10a Elouera Road; Cronulla, New South Wales; Australia 2230.

CONCLUSION

For the above reasons, applicants' 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 nonsigning 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.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date of **14 November 2002**.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

03 MAY 2004

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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Colin Henry Hamilton
10a Elouera Road
Cronulla, New South Wales
Australia 2230

In re Application of
HAMILTON, Colin Henry, et al.
Application No.: 10/070,870
PCT No.: PCT/AU00/01052
Int. Filing Date: 04 September 2000
Priority Date: 02 September 1999
Attorney Docket No.: DUMME18.001APC
For: DISPENSING SACHET BY BENDING AND METHOD OF SACHET MANUFACTURE

Dear Mr. Hamilton:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

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

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

Knobbe, Martens, Olson & Bear LLP
620 Newport Center Drive
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Newport Beach, CA 92660

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Paper No.

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA GA 30309

MAILED

MAR 30 2009

OFFICE OF PETITIONS

In re Application of :
Titball et el. :
Application No. 10/070882 : ON APPLICATION FOR
Filed: March 11, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No. 081238 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT filed December 4, 2008[1]. Citing Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), applicants request that the patent term adjustment be corrected from seventy-eight (78) days to seven hundred fifty-seven (757) days. This request is made in part on the basis that the Office will take in excess of three years to issue this patent.

To the extent that this 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 ordinarily 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). It is noted that at the time of this decision, the patent has not issued.

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for

[1] This application was timely filed prior to payment of the Issue Fee on December 30, 2008.

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.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term 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.

With respect to the patent term adjustment at the time of the mailing of the notice of allowance, applicants acknowledge the period of adjustment of 557 days for Office delay and the periods of reduction of 84, 1, 94, 57, 88, and 63 days for applicant delay (in association with the responses filed January 24, 2005; June 24, 2005; September 26, 2005; November 22, 2005; October 29, 2007 and June 16, 2008). Applicants, however, aver that the period of reduction of 92 days for applicant delay pursuant to 37 CFR 1.704(b) is incorrect. In this regard, applicants are advised that the period of reduction of 92 days entered for applicant delay pursuant to 1.704(b)[2] is correct. The Request for Continued Examination ("RCE"), filed February 8, 2007, in response to the final Office action mailed August 8,

---

[2] 37 CFR 1.704(b provides: With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

2006, was filed 92 days after November 8, 2006 - three months after the date of mailing of the final Office action - mailed August 8, 2006.

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

The application file is being forwarded to the Office of 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 Attorney Derek Woods at (571) 272-3232.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/4/04

Paper No.: _____

TO SPE OF : ART UNIT 1626 10/070,899

SUBJECT : Request for Certificate of Correction on Patent No.: 6,743,925

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.

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

Comments:

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600
2/10/05
SPE

1626
Art Unit

03 JUN 2002
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Washington, D.C. 20231
www.uspto.gov

Supervisor, Patent Prosecution Services
Piper Marbury Rudnick & Wolfe, LLP
1200 Nineteenth Street, NW
Washington, DC 20036-2412

In re Application of DEBAILLEUL	:	
U.S. Application No.: 10/070,918	:	DECISION ON PETITION
Int. Application No.: PCT/BE98/00180	:	
Int. Filing Date: 20 November 1998	:	UNDER 37 CFR 1.137(b)
Priority Date: 20 November 1997	:	
Attorney Docket No.: 4006-007-30	:	
For: METHOD AND INSTALLATION FOR SEPARATING CONSTITUENTS OF USED TYRES	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 13 March 2002.

BACKGROUND

On 20 November 1998, applicant filed international application PCT/BE98/00180, which claimed priority of an earlier Belgium application filed 20 November 1997. A copy of the international application was communicated to the USPTO from the International Bureau on 03 June 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 16 June 1999, 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 22 May 2000 (20 May 2000 was a Saturday).

International application PCT/BE98/00180 became abandoned as to the United States at midnight on 22 May 2000 for failure to pay the basic national fee.

On 13 March 2002, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless

previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a proper translation of the international application into English and the appropriate processing fee under 37 CFR 1.492(f) must be submitted.[1]

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

[1] The purported translation filed 13 March 2002 appears to be improper. For example, the published international application contains 16 claims, while the purported translation contains 15 claims. See MPEP 1893.01(d), which states, "The translation must be a translation of the international application as filed with any changes which have been properly accepted under PCT Rule 26 or any rectifications which have been properly accepted under PCT Rule 91. Amendments, even those considered to be minor or to not include new matter, may not be incorporated into the translation."

13 AUG 2002
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Sol Sheinbein
G. E. Ehrlich
c/o Anthony Castorina
2001 Jefferson Davis Highway, Suite 207
Arlington, VA 22202

In re Application of
ZAMIR et al.
Serial No.: 10/070,923
PCT No.: PCT/IL01/00008
Int. Filing Date: 02 January 2001
Priority Date: 04 January 2000
Attorney's Docket No.: 02/23531
For: POLYNUCLEOTIDE ENCODING POLYPEPTIDES HAVING INVERTASE ACTIVITY AND USE OF SAME

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

This is a decision on applicant's "Petition under 37 CFR 1.137(b)" filed in the United States Patent and Trademark Office (USPTO) on 13 March 2002.

BACKGROUND

On 02 January 2001, applicant filed international application No. PCT/IL01/00008, which claimed a priority date of 04 January 2000. No Demand was filed. Thus, the deadline for entry into the national stage was 20 month from the priority date or to 04 September 2001. International application PCT/IL01/00008 became abandoned as to the United States of America after midnight on 04 September 2001 for failure to pay the basic national fee.

On 13 March 2002, applicant filed a Transmittal Letter requesting entry into the national stage. Applicant also filed the instant petition to revive PCT/IB01/00008 under 37 CFR 1.137(b).

DISCUSSION

As explained at Section 1893.03(a) of the Manual of Patent Examining Procedure (MPEP), 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:

The Patent and Trademark Office is continuing to receive application papers which do not

clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.

* * *

If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

On 13 March 2002, applicant filed a Transmittal Letter to the United States Designated/Elected Office Concerning A Filing under 35 U.S.C. 371 (Form PTO-1390) The first sentence of the accompanying specification stated "This application is a Continuation-In-Part of PCT/IL01/00008, filed January 02, 2001...". Applicant provided the basic national fee for entry into the national stage in the USPTO. Therefore, due to the conflicting instructions, the papers filed on 13 March 2002 are considered a U.S. application under 35 U.S.C. 111(a).

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

Applicants' statement that the "the failure to file the PCT Demand and the U.S. National Stage filing therefore was unintentional" has been interpreted as meaning that "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) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

A review of the application file reveals that the required petition fee of $640 has been paid. 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.

Applicant is entitled to claim benefit under 35 U.S.C.120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 10/070,923) and the international application (PCT/IL01/00008) designating the United States were copending on 13 March 2002. In order to obtain benefit of the earlier international application, applicant amended the beginning of the specification of this application by inserting a proper reference to the parent international application with the statement: "This application is a Continuation-In-Part of PCT/IL01/00008, filed January 2, 2001."

Applicant is reminded that in order to perfect the claim for priority under 35 U.S.C. 119, applicant must submit a certified copy of the priority document. The certified copy of the priority document submitted to the International Bureau cannot be relied upon to perfect the claim for priority. *See* MPEP §1896.

International application PCT/IL01/00008 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 10/070,923.

CONCLUSION

For the reasons above, applicants' submission on 13 March 2002 will be treated as an application filed under 35 U.S.C. 111(a), with a filing date of 13 March 2002. Applicant's petition to revive PCT/IL01/00008, originally filed with the DO/EO/US on 13 March 2002 is

GRANTED.

This application is being forwarded to Office of Initial Preliminary Examination (OIPE) for further processing as an application filed under 35 U.S.C. 111(a), having a filing date of 13 March 2002. The application will then be forwarded to Art Unit 1638.

Leonard E. Smith
Legal Examiner
PCT Legal Office

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

CMK/LES:cmk

Telephone: (703) 306-5467

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

SOL SHEINBEIN
G.E. EHRLICH (1995) LTD.
c/o ANTHONY CASTORINA
2001 JEFFERSON DAVIS HIGHWAY, SUITE 207
ARLINGTON VA 22202

COPY MAILED

JAN 22 2003

OFFICE OF PETITIONS

In re Application of
Zamir, et al.
Application No. 10/070,923
Filed: March 13, 2002
Attorney Docket No. 02/23531
For: POLYNUCLEOTIDES ENCODING POLYPEPTIDES HAVING INVERTASE ACTIVITY AND USE OF SAME

DECISION GRANTING PETITION

This is a decision on the petition entitled, "PETITION TO ACCEPT DRAWING", filed November 15, 2002, requesting, in effect, partial withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice) insofar as it alleges that Figure 1D described in the specification was omitted. The petition will be treated under 37 CFR 1.53(e).

The application was filed on March 13, 2002. On September 16, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that Figure 1D described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that Figure 1D be accorded a filing date of March 13, 2002 on the basis that 21 sheets of drawing figures, including Figure 1D, were received in the Patent and Trademark Office (PTO) on March 13, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing March 13, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 21 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 21 sheets of drawing figures were filed on March 13, 2002. MPEP 503. A review of the originally filed sheets of drawings reveals that only 20 sheets are present. The page missing corresponds to the page that would contain a "Figure 1D." Accordingly, the request is granted.

Pursuant to petitioners' authorization, the $130.00 petition fee will be credited to deposit account no. 50-1407.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of March 13, 2002, using the 21 sheets of substitute drawing figures submitted with the instant petition. Office records will be corrected to show that 21 sheets of drawings were present on filing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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 : 4/23/08

Patent No. : 7249400 B2
Application No : 10/070937
Inventor(s) : Offa-Jones
Issued : July 31, 2007
Title : **RECLOSABLE FASTENERS FOR PLASTICS BAGS AND OTHER CONTAINERS**
Docket No. : THOM-0021

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).

In view of the foregoing, your request is hereby 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 Mary F. Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

MFD/eme

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OFFICE OF PETITIONS

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

In re Patent No. 7,249,400	:	
Issue Date: July 31, 2007	:	
Application No. 10/070,937	:	ON PETITION
Filed: June 4, 2002	:	
Attorney Docket No. THOM-0021	:	

This is a decision on the petition filed May 21, 2008, 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 Terri Johnson at (571) 272-2991. 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.

Chris Bottorff
Petitions Examiner
Office of Petitions

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

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ALEXANDRIA, VA 22313-1450
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26 SEP 2003

William H. Dippert
Cowan, Liebowitz & Latman, PC
1133 Avenue of the Americas - 35th Floor
New York, NY 10031

In re Application of :
GORENBERG, Nora Viviana et al. :
Application No.: 10/070,940 : DECISION ON
PCT Application No.: PCT/IL01/00583 :
International Filing Date: 27 June 2001 : PETITION
Priority Date: 27 June 2000 :
Attorney Docket No.: 22868.66 : UNDER 37 CFR 1.137(b)
For: APPARATUS AND METHOD FOR NON-INVASIVE MONITORING OF HEART PERFORMANCE :

This decision is in response to applicants' "Request For Reconsideration," filed in the United States Patent and Trademark Office on 25 November 2002.

BACKGROUND

On 27 June 2001, applicants filed international application PCT/IL01/00583, which claimed a priority date of 27 June 2000. A copy of the application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 January 2002. The twenty month deadline for entry into the national stage in the United States was 27 February 2002.

On 07 March 2002, applicants filed a transmittal letter for entry into the national stage in the United States directed to PCT/IL01/01583 accompanied by, *inter alia*, the basic national fee and a petition to revive directed to PCT/IL01/00582.

On 10 May 2002, the Office mailed Notification seeking clarification of which international application applicants sought to revive and with which application applicants sought to enter the national stage in the United States.

On 25 November 2002, applicants submitted "Request For Reconsideration," accompanied by the fee for a four month extension of time. The submission was filed with a certificate of first class mailing.

On 10 April 2003, applicants submitted a copy of the 25 November 2002 submission and an executed declaration by facsimile.

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 have clarified that they are attempting to revive PCT/IL01/00583. Applicants' statement that "the abandonment of this application was unintentional and that the entire delay from the original 20 month filing date of February 27, 2002 was unintentional," is construed to mean that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). If this is not a correct interpretation, applicants must notify the Office immediately. The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

The declaration accompanying the 10 April 2003 submission complies with 37 CFR 1.497(a)-(b).

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 Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. 371 date of **10 April 2003**.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

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JUN 8 - 2005

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TECHNOLOGY CENTER 2600

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

In re application of:
Terry et al.
Application No. 10/071,007
Filed: February 7, 2002
For: MULTI-BAND COAX EXTENDER FOR IN-BUILDING DIGITAL COMMUNICATION SYSTEMS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on May 2, 2005.

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

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

All attorneys/agents listed in the withdrawal 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: JOHN L. DOUGHTY
ARRIS INTERNATIONAL, INC.
3871 LAKEFIELD DRIVE
SUWANEE, GA 30024

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DIW 08-02

Paper No. 7

CLAUDE F. PURCHASE, JR.
WARNER-LAMBERT COMPANY
2800 PLYMOUTH ROAD
ANN ARBOR MI 48105

COPY MAILED

AUG 1 5 2002

OFFICE OF PETITIONS

In re Application of	:	
Dyer et al.	:	
Application No. 10/071,032	:	DECISION GRANTING
Filed: 8 February, 2002	:	PETITION
Attorney Dckt No. A0000425-01-CFP	:	

This is a decision on the petition under 37 CFR 1.53(e) filed on 27 June, 2002, requesting that the above-identified application be accorded a filing date of 8 February, 2002, with Pages 259-268 of the specification (description and claims) as a part of the original disclosure.

The petition is **GRANTED**.

On 8 February, 2002, the application was filed.

On 4 June, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Corrected Application Papers stating that the application had been accorded a filing date of 8 February, 2002, but that Pages 259-268 of the specification (description and claims) appeared to have been omitted from the application. Additionally a substitute specification in compliance with 37 CFR 1.52 was required.

In response, on 27 June, 2002, the present petition was filed. Petitioners argue that Pages 259-268 of the specification were filed on 8 February, 2002. In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt bears a USPTO "Office date" stamp dated 02/08/02 and the above-identified application number, identifies the application by first named inventor's name, invention title, and attorney docket number, and itemizes, *inter alia*, a specification on 212 pages, 44 claims on 57 pages, and an abstract of the

disclosure (1 page), resulting in a total of 270 pages. Petitioners also supplied a copy of Pages 259-268 containing claims.

A review of the official file reveals that Pages 1-258 and 269 of the specification (consisting of 211 pages of description, 57 pages of claims, and one (1) page of abstract) received on 8 February, 2002, are located therein. As the claims start on Page 212, it is obvious that the written description was contained on Pages 1-211 rather than Pages 1-212, and that the entire specification, including the claims and abstract, consisted of 269 rather than 270 pages. However, since the individual at the USPTO who compared petitioners' postcard to the items received found that the specification (including claims and abstract) as filed contained at least 269 pages, the evidence is persuasive that Pages 259-268 containing claims were among the application papers received on 8 February, 2002, but were subsequently misplaced in the U.S. Patent and Trademark Office. It is also noted that the postcard itemizes the filing of 44 claims, and that the application, including Pages 259-268, contains 44 claims. The application, including Pages 259-268 of the specification containing claims, is therefore entitled to a filing date of 8 February, 2002.

The Notice mailed on 4 June, 2002, is vacated to the extent that it states that Pages 259-268 of the specification (description and claims) appeared to have been omitted. As the petition was necessitated by an error on the part of the Office, the petition fee of $130.00 will be credited to counsel's deposit account, No. 23-0455.

The application will be processed using Pages 1-258 and 269 of the specification, including claims, and abstract filed on 8 February, 2002, and the copy of Pages 259 to 268 of the specification supplied on 27 June, 2002, as a part of the original disclosure.

Receipt is acknowledged of the substitute specification filed on 27 June, 2002. The substitute specification is not considered part of the original disclosure and must be reviewed by the examiner for new matter.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 8 February, 2002, using the application papers filed on that date and the copy of Pages 259-268 supplied on 27 June, 2002. Initial Patent

Examination Division will review the substitute specification for compliance with 37 CFR 1.52.

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

D Wood

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

#12

Claude F. Purchase, Jr.
Warner-Lambert Company
2800 Plymouth Road
Ann Arbor, MI 48105

May 29, 2003

MAILED

JUN 04 2003

Office of the Director
Group 3600

In re:	Dyer et al.	: Decision on Petition under
Serial No.	10/071,032	:
Filed :	February 8, 2002	: 37 CFR 5.4

For: Bicyclic Pyrimidine Matrix Metalloproteinase Inhibitors

This is a decision on the petition under 37 CFR 5.4, filed January 21, 2003 for the recession of a secrecy order under 35 USC 181.

It has been noted that a filing receipt mailed on September 24, 2002 indicated that subject matter of the application was placed under a secrecy order. However a review of the file and the Office records indicates that a secrecy order was never placed on the application nor was a secrecy order placed on the provisional application to which this application claims benefit.

During the time the filing receipt was generated, a copy of the application was sent to at least one defense agency pursuant to 35 U.S.C. 181. As such, a projected PGPub date could not have been indicated at the time. Although the fact that a projected publication date was not indicated was proper, the indication of a secrecy order was in error.

In that the application was never placed under a secrecy order, the applicant's petition for recession is DISMISSED.

The application will be forwarded to the Office of Initial Patent Examination for the issuance of a corrected filing receipt. The application will then be returned to the examining group for a refund of the petition fee and examination on the merits.

Any questions or comments with respect to this decision should be forwarded to Michael J. Carone at 703 306-4198

Michael J. Carone
Supervisory Patent Examiner
Technology Center 3600
703 306-4198

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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DIW 06-02

Paper No. 6

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

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JUN 0 6 2002

OFFICE OF PETITIONS

In re Application of	: DECISION REFUSING STATUS
Shroot et al.	: UNDER 37 CFR 1.47(a)
Application No. 10/071,051	: AND DECISION
Filed: 8 February, 2002	: UNDER 37 CFR 1.28(c)
Attorney's Docket No. P05380US0	:

This is in response to the petition under 37 CFR 1.47(a) filed on 8 February, 2002, and the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on 25 March, 2002.

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

The deficiency fee payment under 37 CFR 1.28(c) is **accepted**.

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

PETITION UNDER 37 CFR 1.47(a)

The above-identified application was filed on 8 February, 2002, with an executed oath or declaration naming Braham Shroot, Lawton A. Seal, James R. Hunt, Jonathon Sterling, Kathy Bolsen, and Penny L. Sitka as joint inventors and signed by all inventors except joint inventor Sterling on behalf of themselves and joint inventor Sterling. A petition under 37 CFR 1.47(a) was also

filed with the application papers deposited on 8 February, 2002. In response, on 6 March, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring the signature of joint inventor Sterling on the declaration and a surcharge for its late filing. A two (2) month period for reply was set.

Petitioners assert that Sterling cannot be found or reached to sign the declaration for the present patent application.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regards to item (1), petitioners have not submitted sufficient proof that diligent efforts have been made to locate the non-signing inventor.[1] Petitioners should submit proof that a copy of the application (specification including claims, drawings, if any, and the declaration) was sent or given to the non-signing inventor for review.[2] Petitioners may provide proof by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Petitioners should also provide proof that the inventor refuses to sign the declaration. If there is a written refusal, petitioners should provide a copy of the written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

---

[1] MPEP 409.03(d).

[2] Id.

If the application is returned as undeliverable, petitioners should submit a copy of an envelope showing that a letter sent to the last known address of the non-signing inventor was returned as undeliverable by the post office. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.

DECISION 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."

The current fees due for a large entity are $740.00. On 8 February, 2002, $370.00 was paid. Therefore, a deficiency of **$370.00** is due. Petitioner has submitted a check in the amount of $370.00. However, petitioner is ultimately responsible for ensuring that the correct fee is paid and MUST notify the Office if the above calculations are incorrect.

It is also noted that on 14 May, 2002, petitioners submitted the late filing fee or oath or declaration surcharge in the small entity amount of $65.00. In light of the loss of small entity status, a deficiency of **$65.00** is due and will be charged to counsel's deposit account, No. 26-0084 pursuant, to the authorization provided in the petition under 37 CFR 1.47(a) filed on 8 February, 2002.

Small entity status will no longer apply.

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

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

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

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 08-02

Paper No. 9

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

COPY MAILED

AUG 12 2002

OFFICE OF PETITIONS

In re Application of	:
Shroot et al.	: DECISION ACCORDING STATUS
Application No. 10/071,051	: UNDER 37 CFR 1.47(a)
Filed: 8 February, 2002	:
Attorney's Docket No. P05380US0	:

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 5 August, 2002.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Jonathan Sterling, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the petitioners have established, via the letter signed by petitioners' registered patent counsel, Edmund J. Sease, that a copy of the above-identified application was sent to the non-signing inventor's address. Petitioners have also shown, via the declaration of Ruth A. Lourens, that Sterling indicated during two phone calls a willingness to sign the declaration, but questioned whether he should be the first named inventor. Sterling did not return a signed declaration, however. A follow-up letter was mailed to Sterling on 29 July, 2002, again requesting that he sign and return the declaration. However, the non-signing inventor has failed to execute and return the declaration naming him as a joint inventor along with Braham Shroot, Lawton A. Seal, James R. Hunt, Kathy Bolsen, and Penny L. Sitka

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 the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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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MAR 26 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Pennie and Edmonds
1155 Avenue of the Americas
New York, NY 10036-2711

Paper No. 7

In re application of
Bruce Bent et al.
Application No. 10/071,053
Filed: February 8, 2002
For: SYSTEMS AND METHODS FOR ADMINISTERING RETURN SWEEP ACCOUNTS

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on March 14, 2003, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a signed statement from the applicant stating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121
(703) 605-0586 (facsimile)

RAR/tpl: 3/21/03

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DRW 06-02

MEMORANDUM

DATE: 6 June, 2002

TO: Thomas L. Koontz, Director
Office of Initial Patent Examination

FROM: Douglas I. Wood DIW
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
Crystal Plaza 4 - 3C23
(703) 305-9282

SUBJECT: Application No. 10/071,066

A petition under 37 CFR 1.182 was filed on 12 April, 2002, requesting that the above-identified application be accorded a filing date of 12 April, 2002, the date of deposit of the item(s) noted as omitted in the Notice of Omitted Item(s) mailed on 5 April, 2002.

In accordance with the procedure set forth in "Changes Relating To An Application Filing Date Under 37 CFR 1.53," page 11 (copy enclosed), the application is being returned to OIPE for issuance of a new filing receipt indicating a filing date of 12 April, 2002, and for repressing using the copy of Figure 11 supplied on 12 April, 2002, and for issuance of a decision on the petition in accordance with MPEP 1002.02(q)(5).

Upon the mailing of a decision on the petition, the application file should **not** be returned to the Office of Petitions, but should be forwarded for further processing and examination.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

YOUNG LAW FIRM
A PROFESSIONAL CORPORATION
4370 ALPINE ROAD SUITE 106
PORTOLA VALLEY, CA 94028

COPY MAILED

MAY 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Richard C. Johnson :
Application No. 10/071,066 : DECISION GRANTING PETITION
Filed: April 12, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. ORCL5595CIP :

This is a decision on the petition, filed March 19, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

The above-identified application was deposited on February 8, 2002 with a non-publication request. Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on March 14, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the 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 September 2, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being forwarded to Technology Center Art Unit 3621 for examination in due course.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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DEC 0 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Pazienza et al.	:	
Application No. 10/071071	:	
Filing or 371(c) Date: 02/08/2002	:	ON PETITION
Patent No. 6821292	:	
Issue Date: 11/23/2004	:	
Attorney Docket Number: 1133279-0017	:	

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

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

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JUL 2 2 2008

OFFICE OF PETITIONS

In re Application of :
SCHLEGEL et al. : LETTER REGARDING
Application No. 10/071,138 : PATENT TERM ADJUSTMENT
Filed: February 8, 2002 :
Attorney Docket No. 0112300-742 :

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed January 8, 2008, which is properly treated as a request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy in accordance with applicants' duty of good faith and candor to the Office. Applicants state that the patent term adjustment should be corrected from 479 days to 444 days.

The request for review of the determination of 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 **443 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 10, 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 to date is 479 days. On January 8, 2008, applicants submitted the instant comment.

Applicants assert that the patent term adjustment should be reduced by 35 days for the period of time in excess of three months that was taken to reply to an Office action. See 37 CFR 1.704(b). Specifically, applicants state that a Request for

Continued Examination (RCE) was filed on July 6, 2005, in excess of the three-month period from the mailing date of the final Office action on March 1, 2005.

Applicants' assertion is well taken. The period of adjustment of the term of the patent should be reduced by 35 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the final Office action, June 2, 2005, and ending on the date the RCE was filed, July 6, 2005. See 37 CFR 1.704(b).

Additionally, a review of the application history reveals that applicants filed a RCE on Monday, May 7, 2007,[1] three months and one day after the date of the mailing of the final Office action on February 6, 2007. As applicants failed to engage in reasonable efforts to conclude processing or examination of the application within the meaning of 37 CFR 1.704(b), an additional period of reduction of one day is warranted.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **443 days** (632 days of Office delay - 189 days of applicant delay).

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 fee as set forth in 37 CFR 1.18(e). Therefore, the $200.00 fee submitted on January 8, 2008, will be refunded to the Deposit Account. The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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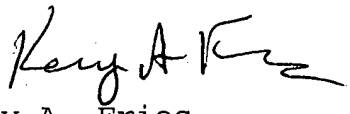
[1] The Office notes that the calculation of applicant delay is based on the date of receipt of a response in the Office. 35 U.S.C. 154(b)(2)(C)(ii) does not require that a reply be filed in the Office within its three (3) month grace period, but simply specifies that there is a patent term adjustment reduction if a reply is not filed within this three (3) month period. Therefore, the "carry-over" provisions of 35 U.S.C. 21(b) do not apply to the three (3) month period in 35 U.S.C. 154(b)(2)(C)(ii).

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

Telephone inquiries regarding this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.



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

Enclosure: Copy of updated PAIR screen

Day : Sunday
Date: 7/20/2008

PALM INTRANET

Time: 09:39:15

PTA Calculations for Application: 10/071138			
Application Filing Date:	02/08/2002	PTO Delay (PTO):	632
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	153
Post-Issue Petitions:	0	Total PTA (days):	443
PTO Delay Adjustment:	-36		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
75	07/20/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		36	
66	12/10/2007	MAIL NOTICE OF ALLOWANCE			
65	12/05/2007	ISSUE REVISION COMPLETED			
63	10/31/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
62	10/22/2007	DOCUMENT VERIFICATION			
61	10/22/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
60	10/22/2007	NOTICE OF ALLOWABILITY			
58	07/23/2007	CASE DOCKETED TO EXAMINER IN GAU			
57	06/26/2007	CASE DOCKETED TO EXAMINER IN GAU			
56	05/08/2007	DATE FORWARDED TO EXAMINER			
55	05/07/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
54	05/08/2007	DATE FORWARDED TO EXAMINER			
53	05/07/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
52	05/08/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
51	05/07/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
50	02/06/2007	MAIL FINAL REJECTION (PTOL - 326)	235		42
49	01/22/2007	FINAL REJECTION			
48	02/16/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	12/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
46	10/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
45	05/07/2006	CASE DOCKETED TO EXAMINER IN GAU			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

44.7	02/16/2006	FILED		0	42
44	02/16/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	02/28/2006	DATE FORWARDED TO EXAMINER			
42	02/16/2006	RESPONSE AFTER NON-FINAL ACTION		69	36
41	02/16/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
40	01/13/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
39	01/10/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
38	01/06/2006	LETTER REQUESTING INTERVIEW WITH EXAMINER			
37	10/06/2005	CASE DOCKETED TO EXAMINER IN GAU			
36	09/09/2005	MAIL NON-FINAL REJECTION			
35	09/06/2005	NON-FINAL REJECTION			
34.7	07/06/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	07/06/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	07/18/2005	DATE FORWARDED TO EXAMINER			
32	07/06/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
31	07/18/2005	DATE FORWARDED TO EXAMINER			
30	07/06/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
29	07/18/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
28	07/06/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	07/06/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
26	04/21/2005	TRANSFER INQUIRY TO GAU			
25	03/01/2005	MAIL FINAL REJECTION (PTOL - 326)	89		21
24	02/25/2005	FINAL REJECTION			
23	09/24/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22	09/24/2004	DATE FORWARDED TO EXAMINER			
21	08/02/2004	RESPONSE AFTER NON-FINAL ACTION		84	12
20	08/02/2004	REFERENCE CAPTURE ON IDS			
19.7	08/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

19	08/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	08/02/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
17	07/28/2003	REFERENCE CAPTURE ON IDS			
16	04/15/2003	REFERENCE CAPTURE ON IDS			
15	02/08/2002	REFERENCE CAPTURE ON IDS			
14.7	02/08/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	02/08/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	08/02/2004	WORKFLOW INCOMING AMENDMENT IFW			
12	02/10/2004	MAIL NON-FINAL REJECTION	308		-1
11	02/05/2004	NON-FINAL REJECTION			
10	11/17/2003	CASE DOCKETED TO EXAMINER IN GAU			
8.7	07/28/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	07/28/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7.7	04/15/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	04/15/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	04/03/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	03/12/2002	APPLICATION DISPATCHED FROM OIPE			
4	03/08/2002	APPLICATION IS NOW COMPLETE			
2	02/23/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/08/2002	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.

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MILLENNIUM PHARMACEUTICALS, INC.
40 Landsdowne Street
CAMBRIDGE MA 02139

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SEP 2 8 2005

OFFICE OF PETITIONS

In re Application of :
Storm et al :
Application Number: 10/071,223 :
Patent: 6,841,372
Attorney Docket Number: 044481-5029-02 :
Filing Date: February 11, 2002 :
Issue Date: January 11, 2005 :

DECISION ON PETITION

This is a decision on the petition to correct the assignee under 37 CFR 1.183 filed on May 2, 2005. The petition is properly treated under 37 CFR 3.81 (b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Granted**.

Pursuant to petitioner's request deposit account 50-1668 is being charged the $100 certificate of correction fee pursuant to 37 CFR 1.20(a).

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Charlema R. Grant
Petitions Attorney
Office of Petitions

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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FEB 0 7 2007

OFFICE OF PETITIONS

In re Patent No. 7,123,766 :
Issue Date: October 17, 2006 :
Application No. 10/071,240 : NOTICE
Filed: February 11, 2002 :
Attorney Docket No. 23390-000101/US :

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

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

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

This application no longer qualifies for small entity status. Accordingly, all future fees in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. ***See 37 CFR 1.27(c)(2).***

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

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MAR 18 2004

STEPHEN B. MAEBIUS
FOLEY & LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007-5300

In re Application of	:	
Gary L. Griffiths	:	
Serial No.: 10/071,247	:	WITHDRAWAL OF ATTORNEY
Filed: February 11, 2002	:	
Attorney Docket No.: 018733-1093	:	

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

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 571-272-0519 or by facsimile transmission at Office facsimile number.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/10/2006

TO SPE OF : ART UNIT 1700 (1756)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,985,773

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

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

Ok for changes to claims as requested in COCIN?

Thank You For Your Assistance

Ernest C. White, LIE305-8339
Certificates of Correction Branch

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

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

Comments:

OK for changes

ANGELA D. SYKES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

3762

SPE **Art Unit**

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **04/10/2006**

TO SPE OF : ART UNIT **1700 (1756)**

SUBJECT : Request for Certificate of Correction on Patent No.: **6,985,773**

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

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Ok for changes to claims as requested in COCIN?

Thank You For Your Assistance

Ernest C. White, LIE305-8339
Certificates of Correction Branch

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

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

Comments:

OK for changes

ANGELA D. SYKES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE

3762
Art Unit

Copied from 10671255 on 01/23/2008

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **04/10/2006**

TO SPE OF : ART UNIT **1700 (1756)**

SUBJECT : Request for Certificate of Correction on Patent No.: **6,985,773**

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

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

Ok for changes to claims as requested in COCIN?

Thank You For Your Assistance

Ernest C. White, LIE305-8339
Certificates of Correction Branch

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

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

Comments:

OK for changes

ANGELA D. SYKES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE

3762
Art Unit

Copied from 10671255 on 01/23/2006

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **04/10/2006**

TO SPE OF : ART UNIT **1700 (1756)**

SUBJECT : Request for Certificate of Correction on Patent No.: **6,985,773**

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

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

Ok for changes to claims as requested in COCIN?

Thank You For Your Assistance

Ernest C. White, LIE305-8339
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:

_____

_____

_____

_____

_____

ANGELA SYKES — **SPE**

3762 — **Art Unit**

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Paper No. 6

MAY 18 2004

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TECHNOLOGY CENTER 2100

Barry W. Chapin, Esq.
Chapin & Huang, L.L.C.
Westborough Office Park
1700 West Park Drive
Westborough, MA 01581

In re Application of:
Philip Gladstone et al.
Application No. 10/071,328
Filed: February 8, 2002
For: STATEFUL REFERENCE MONITOR

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102 AND M.P.E.P. §708.02(XI)

This is a decision on the petition to make special, filed 01 March 2004 (originally filed 12 September 2002), under 37 C.F.R. §102(d) in view of M.P.E.P. §708.02(XI): Inventions For Countering Terrorism.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. §1.102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The claimed invention is generally directed to monitoring and detecting defined events in a computer and responding to the events using stored information to modify the operation of a computer. Operating "events" in a computer are not "violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State" or activities "that would be a criminal violation if committed within the jurisdiction of the

United States or of any State" as indicated above nor are they necessarily intended to intimidate a population or influence a government.

Although it can be said that monitoring for certain events in a computer would limit acts of terrorism, the method and system disclosed do not specifically teach monitoring for terrorists or potential terrorist acts (e.g. monitoring for trace materials or biological contaminants or notifying a user of a terrorist or potential terrorist act). Furthermore, implementing the event monitoring, and the subsequent enforcement of the outcome of event monitoring, with regard to terrorism or terrorist acts has not been disclosed. It appears that the specification is silent with regard to the implementation of the invention with respect to identifying terrorism or terrorist acts, thereby preventing terrorism or terrorist acts. As a result, no advancement in the technology of countering terrorism has been persuasively shown.

Accordingly, the petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.

It is suggested that Applicant review M.P.E.P. §708.02 regarding other grounds available for filing a petition to make special. In particular, note M.P.E.P. §708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (703) 305-9750.

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

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ARTZ & ARTZ, P.C.
28333 TELEGRAPH RD.
SUITE 250
SOUTHFIELD MI 48034

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OFFICE OF PETITIONS

In re Application of :
Sohel Anwar :
Application No. 10/071,331 : ON PETITION
Filed: February 8, 2002 :
Attorney Docket No. 201-0644 (VGT 0270PA) :

This is a decision on the petition filed May 13, 2002, requesting that the above-identified application be accorded a filing date of February 8, 2002.

The petition is **granted**.

The application was deposited on February 8, 2002. However, on April 12, 2002, the Office of Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application," stating that the specification was omitted from the application on filing and did not include at least one claim.

In response, the present petition was filed. The petition argues that the specification and drawings were in fact received in the PTO on filing on February 8, 2002. In support of this assertion, petitioner has supplied a stamped postcard which acknowledges receipt in the PTO of the specification (18 pages) and drawings (3 sheets, Figures 1-5), on February 8, 2002.

MPEP 503 states that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, since the evidence supports the fact that the Utility Patent Application Transmittal; Fee Transmittal; Checks $740.00, $40.00; Combined Declaration and Power of Attorney; Recordation Form Cover Sheet; Assignment; Specification (18 pages), claims 1-18, abstract; Drawings (3 sheets, Figures 1-5); Disclosure Statement and IDS Form 1449A-7 references, were in fact present on filing, the Notice mailed April 12, 2002 is vacated.

Since the specification and drawings cannot be located in the Office, the copy of the specification and drawings supplied on May 13, 2002 will be used for processing and examination purposes.

This application is being forwarded to the Office of Initial Patent Examination Division for further processing with a filing date of February 8, 2002, and for an indication that the specification (18 pages), drawings (3 sheets Figures 1-5) and 18 claims were included on filing.

Telephone inquiries concerning this matter may be directed to Karen Creasy at (703) 305-8859.

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

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William C. Munck
Docket Clerk
P.O. Drawer 800889
Dallas, Texas

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FEB 16 2006

OFFICE OF PETITIONS

In re Application of
Meacham et al.
Application No. 10/071,348
Filed: Febryary 8, 2002
Attorney Docket No. NATI15-04986

: DECISION HOLDING PETITION IN
:ABEYANCE

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" filed December 20, 2005. Applicants request that the patent issuing from the above-identified patent application be afforded a patent term adjustment of three hundred and sixty-seven (367) days. The sole basis for this request is the Office taking in excess of three years to issue the patent.

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

Patentees are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentee may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

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

whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions*; *Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

The office also notes that at the time of the mailing of allowance, the amount of PTA is zero (0) days with zero days of administrative delay and fifty-three (53) days of applicant delay for four responses of more than three months. See 37 CFR 1.704(b). Accordingly, the Office delay after the mail date of the notice of allowance must be at least 53 days more than applicant delay to receive PTA at the time of the issuance of the patent.

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

The application file is being forwarded to the Office of Patent Publication for issuance of the patent. Any Office delays in issuance of the patent more than four months past the payment of the issue fee and more than three years after the filing date will be provided for in the issuance notification letter mailed prior to the issuance of the patent.

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

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

cc: Pair calculation

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 14

Morrison & Foerster
425 Market Street
San Francisco, CA 94105-2482

In re Application of:
Paul D. WILKINSON, et al.
Application No. 10/071,357
Filed: February 07, 2002
For: MULTI-MEDIA MANAGEMENT SYSTEMS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 15, 2004.

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

The request is **GRANTED.**

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

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

cc: Charles L. Miller
Banner & Witcoff, Ltd.
Ten South Wacker Drive
Suite 3000
Chicago, IL 60606

JUL 25 2007

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GLAXOSMITHKLINE
CORPORATE INTELLECTUAL PROPERTY, MAI B475
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK NC 27709-3398

In re Patent No. 6,713,485 CARTER ET AL
Issue Date: March 30, 2004
Appl No.: 10/071,358
Filed: February 8, 2002
For: Correction of Inventorship

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed November 1, 2006, to correct inventorship under 37 CFR 1.324.

The petition is **GRANTED**.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

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

JUL 25 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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DATE: July 24, 2007
TO: Certificates of Correction Branch
FROM: William R. Dixon, Jr.
Technology Center 1600
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,713,485 as specified on the attached Certificate.

William R. Dixon, Jr.
Technology Center 1600

JUL 25 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,713,485
Patented: March 30, 2004

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

Malcolm Clive Carter
George Stuart Cockerill
Stephen Barry Guntrip
Karen Elizabeth Lackey

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

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 25 2007

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

GLAXOSMITHKLINE
CORPORATE INTELLECTUAL PROPERTY, MAI B475
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK NC 27709-3398

In re Patent No. 6,713,485 CARTER ET AL
Issue Date: March 30, 2004
Appl No.: 10/071,358
Filed: February 8, 2002
For: Correction of Inventorship

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed November 1, 2006, to correct inventorship under 37 CFR 1.324.

The petition is **GRANTED**.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 25 2007

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DATE: July 24, 2007
TO: Certificates of Correction Branch
FROM: William R. Dixon, Jr.
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SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

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William R. Dixon, Jr.
Technology Center 1600

JUL 25 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,713,485
Patented: March 30, 2004

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UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 07-06

Paper No: __

DAVID MITCHELL GOODRICH, ESQ.
J.M. HUBER CORPORATION
333 THORNALL STREET
EDISON NJ 08837-2220

COPY MAILED

JUL 24 2006

OFFICE OF PETITIONS

In re Application of :
Ou, et al. :
Application No. 10/071,376 : ON PETITION
Filed: 8 February, 2002 :
Attorney Docket No. 01-450 :

This is a decision on a petition filed on 14 June, 2006, under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record indicates:

- Petitioner failed to reply timely to the final Office action mailed on 14 July, 2005, with reply due absent extension of time on or before 14 October, 2005;
- Petitioner filed a reply in the form of an after final amendment on 8 September, 2005, which reply is not of right,[1] and the Examiner mailed an Advisory Action on 23 September, 2005;
- Petitioner filed a Notice of Appeal and fee (with request and fee for extension of time) on

[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).)

14 November, 2005, but did not timely file the Appeal Brief and fee;

- the instant application went abandoned by operation of law after midnight 14 January, 2006;

- the Office mailed the Notice of Abandonment on30 May, 2006;

- Petitioner filed the instant petition on 13 June, 2006, with, *inter alia*, a reply in the form of an Appeal Brief and fee on 14 June, 2006, and made the statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

---

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

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;
(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.
(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —
(1) Holding certain facts to have been established;
(2) Returning papers;

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

---

(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.
(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to the Examiner in Technology Center 3600 to await the Examiner's Answer 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

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

LYON & LYON LLP
633 WEST FIFTH STREET
SUITE 4700
LOS ANGELES CA 90071

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NOV 1 3 2003

OFFICE OF PETITIONS

In re Application of :
Timothy B. Karpishin, et al. :
Application No. 10/071,377 : DECISION ON PETITION
Filed: February 7, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 269/003 :

This is a decision on the petition, filed May 19, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is dismissed as **MOOT**.

Petitioner states that the instant nonprovisional application became the subject of a counterpart application filed in an eighteen-month country on February 7, 2003. A review of the file record discloses that a Notice to Rescind was received in the USPTO on January 31, 2003. It is noted that the person signing the request to rescind is not an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Madeline I. Johnston appearing on the request to rescind constitutes a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party in whose behalf she acts.

Where an applicant makes a nonpublication request under 35 U.S.C. 122(b)(2)(B)(i) and then rescinds (pursuant to 35 U.S.C. § 122(b)(2)(B)(ii)) the nonpublication request **before or on the date a counterpart application is filed in an eighteen-month publication country**, the nonpublication request will be treated as annulled and the application will be treated as if the nonpublication request had never been made. *See* Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2))(B)(ii)-(iv), 1272 OG 1 (July 1, 2003), available at http://www.uspto.gov/web/patents/ patog/week26/.

In the instant application, a notice to rescind was filed prior to the filing date of a counterpart application in an eighteen month publication country.

Therefore, since receipt in the USPTO of the request to rescind prior to the filing date of a counterpart application in an eighteen-month publication country resulted in the annulling of the nonpublication request, this application is not regarded as abandoned. As such, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue.

It is noted that the accompanying Associate Power of Attorney, requests a change of correspondence address to the address given in the instant petition. Since the Revocation and Power of Attorney filed October 3, 2002 was found unacceptable by a Notice mailed July 2, 2003, the person signing the Associate Power of Attorney does not possess power of attorney to appoint an associate in the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. Under the circumstances of this case, a courtesy copy of this decision is being mailed to the person signing the petition. However, all future correspondence regarding this application will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Since this application is not in fact abandoned, for the reason stated above, the petition fee of $650 is being credited to petitioner's deposit account as authorized.

This application is being forwarded to Technology Center AU 1624 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-9220.

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

cc: Rebecca Shortle
Morrison & Foerster, LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

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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DECHERT
P.O. BOX 100004
PALO ALTO, CA 94303-0961

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JUN 15 2006

OFFICE OF PETITIONS

In re Application of :
Li-Lan H. Chen et al :
Application No. 10/071,380 : DECISION ON PETITION
Filed: February 8, 2002 : TO WITHDRAW
Attorney Docket No. 224.0503 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 9, 2006.

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

A review of the file record indicates that the power of attorney to Daniel M. Becker and all the attorneys/agents of record associated with customer No. 25561 have been revoked by the assignee of the patent application on April 19, 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.

This application is being referred to Technology Center AU 1615.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Amelia Au
Petitions Examiner
Office of Petitions

cc: LUCAS & MERCANTI
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK, NY 10016

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

Law Office of Richard B. Klar
Suite 2301
875 Avenue of Americas
New York, NY 10001

MAILED
FROM DIRECTORS OFFICE
MAR 16 2005
TECHNOLOGY CENTER 3600

In re application of
Dennis Veltre et al.
Application No. 10/071,403 : DECISION ON REQUEST
Filed: February 08, 2002 : FOR WITHDRAWAL OF
For: ON SITE COMPUTER NETWORKING : ATTORNEY
METHOD AND SYSTEM FOR WINE SELECTION
AND SHARING

This is a decision on the request filed on December 22, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

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

Given the statement included in the request that, "We have been unable to contact client," it is not clear that the statements satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6).

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/slb: 02/22/05

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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Paper No. 7

IP LEGAL DEPARTMENT
TYCO FIRE & SECURITY SERVICES
ONE TOWN CENTER ROAD
BOCA RATON, FL 33486

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FEB 03 2004

OFFICE OF PETITIONS

In re Application of :
Thomas J. Frederick :
Application No. 10/071,412 : ON PETITION
Filed: February 8, 2002 :
Attorney Docket No. C4-988 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 29, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed April 4, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 5, 2002.

Pursuant to petitioner's authorization, Deposit Account No. 19-1346 was charged $1,330.00 for the petition to revive an unintentionally abandoned application.

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

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)
6588046	2003-07-08	10071416	2002-02-08	PB010580

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	/Kao H Lu/	Date (YYYY-MM-DD)	2007-11-15
Name	Kao H. Lu	Registration Number	43761

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.

DO NOT SCAN! Please forward case and paper to address shown below.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/5/07

TO SPE OF : ART UNIT 2813

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/071425 Patent No.: 7064080

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

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

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Carl Whitehead — SPE

2813 — Art Unit

SPE: C. Whitehead jr

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/22/07

TO SPE OF : ART UNIT 2813

SUBJECT : Request for Certificate of Correction for Appl. No.: 16/021,453 Patent No.: 7057257

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Carl Whitehead

SPE

2813

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Attilio Rimoldi	: DECISION ON REQUEST FOR
Patent Number	: 7650260	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/071,472	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/08/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **934** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Kenneth E. Horton
Kirton & McConkle
60 East South Temple
Suite 1800
Salt Lake City, UT 84111

COPY MAILED

MAY 20 2004

OFFICE OF PETITIONS

In re Application of :
Taeg-Hyun Kang, et al. :
Application No. 10/071,494 : ON PETITION
Filed: February 6, 2002 :
Attorney Docket No. 40013.001 :

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

The petition is **GRANTED**.

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. Since the $950 extension of time fee submitted with the present petition was subsequent to the six-month statutory period for reply, this fee is unnecessary. Petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany such a request.

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

The application file is being forwarded to Technology Center 2800 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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GE HEALTHCARE, INC.
IP DEPARTMENT 101 CARNEGIE CENTER
PRINCETON, NJ 08540-6231

Mail Date: 04/21/2010

Applicant	: Ingrid Henriksen	: DECISION ON REQUEST FOR
Patent Number	: 7597877	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/071,505	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/08/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **482** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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DW 05-03

Paper No. 4

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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MAY 2 1 2003

OFFICE OF PETITIONS

In re Application of	:	
Erland Wittkotter	:	
Application No. 10/071,544	:	DECISION DISMISSING
Filed: 9 February, 2002	:	PETITION
For: APPARATUS AND METHOD FOR THE	:	
DECRYPTION OF AN ENCRYPTED	:	
ELECTRONIC DOCUMENT	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 20 February, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of prior-filed international Application No. PCT/EP01/06263, filed on 1 June, 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 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) of the prior-filed application, unless previously submitted;[1]

[1]Any nonprovisional application or international application designated the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designated 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 indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on 9 February, 2002, and was copending with the above-noted, prior-filed international application, at the time of filing, for which priority is claimed. A references to the above-noted, prior filed international application has been included in an amendment to the first sentence of the specification following the title which was filed concurrently with the instant petition under 37 CFR 1.78(a)(3).

The reference to the above-noted, prior-filed international application was not included in the manner specified in 37 CFR 1.78(a)(2)(*i.e.*, in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(2).

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 20 February, 2003. 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 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 de Seversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to piece 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) can be granted, a substitute amendment deleting the incorporation by reference statement is required.

In order to expedite consideration, petitioner may wish to submit the substitute amendment by facsimile to the number indicated below and to the attention of Senior Petitions Attorney Douglas I. Wood.

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

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

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

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquires should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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JUN 19 2003

OFFICE OF PETITIONS

In re Application of	:	
Erland Wittkotter	:	
Application No. 10/071,544	:	DECISION GRANTING
Filed: 9 February, 2002	:	PETITION
For: APPARATUS AND METHOD FOR THE	:	
DECRYPTION OF AN ENCRYPTED	:	
ELECTRONIC DOCUMENT	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed on 10 June, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of prior-filed international Application No. PCT/EP01/06263, filed on 1 June, 2001.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) of the prior-filed application, unless previously submitted;[1]

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The present pending application was filed on 9 February, 2002, and was copending with the above-noted, prior-filed international application, at the time of filing, for which priority is claimed. A references to the above-noted, prior filed international application has been included in an amendment to the first sentence of the specification following the title which was filed concurrently with the instant petition under 37 CFR 1.78(a)(3).

The present nonprovisional application was filed after 29 November, 2000, and the claim for priority herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2). Also, the reference to the prior-filed international application designating the United States was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the present petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120, the petition to accept an unintentionally delayed claim to benefit to prior-filed Application No. PCT/EP01/06263 is granted as of the date of filing the petition.

A corrected Filing Receipt which includes the priority claim to the above-noted, prior filed nonprovisional application and the

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[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 designated 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 indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

projected publication date for the present application accompanies this decision on petition.

The application is being forwarded to Technology Center 2100 for processing the amendment filed on 10 June, 2003, and for consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(3) for the benefit of the above-noted, prior filed international application.

Telephone inquires should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

cf: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAW OFFICE OF RICHARD B. KLAR
28 East Old Country Road
Hicksville NY 11801

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MAR 2 0 2006

OFFICE OF PETITIONS

In re Application of
Hornsby et al.
Application No. 10/071,545
Patent: 6,949,003
Filed: February 8, 2002
Issued: September 27, 2005
Attorney Docket Number: 14333

: NOTICE

This is a notice regarding your request filed on January 17, 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 file is being forwarded to the Files Repository.

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

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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Mailed JUL 2 3 2003

Paper NO. 9

In re Application of
Shenheng Guan et al.
Serial Number: 10/071,546
Filed: February 08, 2002
For: APPARATUS FOR SCREENING CATALYSTS IN A PARALLEL FIXED-BED REACTOR

DECISION ON PETITION UNDER M.P.E.P. 708.02,II

This is in response to the petition filed, February 08, 2002, requesting that the above-identified application be granted Special Status under Section 708.02, II of the M.P.E.P. and 37 CFR 1.102(d) (fee paid).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is **GRANTED.**

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

Senniger Powers Leavitt & Roedel
One Metropolitan Square, 16TH Floor
St. Louis, MO 63102

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED: May 24, 2007

In re Application of	:	
Guan, et al.	:	
Application No. 10/071,546	:	DECISION ON PETITION
Filing Date: February 8, 2002	:	
For: APPARATUS FOR SCREENING CATALYSTS IN A PARALLEL FIXED-BED REACTOR	:	

This is a decision on the petition under 37 CFR § 1.48(b) filed March 1, 2006.

On March 1, 2006, the present petition and authorization to charge counsel's deposity account for the $130.00 petition fee were filed. Petitioners request amendment of the inventorship to delete Ravi Srinivasan as the amendment or cancellation of claims has resulted in this person no longer being an actual inventor of the invention being claimed. Petitioners request that the actual inventorship be given as Shenheng Guan, Lynn Van Erden, Robert C. Haushalter, Xiao Ping Zhou and Xuejun Jason Wang.

37 CFR 1.48 Correction of inventorship states, in part:

(b) Nonprovisional application —fewer inventors due to amendment or cancellation of claims . If the correct inventors are named in a nonprovisional application, and the prosecution of the nonprovisional application results in the amendment or cancellation of claims so that fewer than all of the currently named inventors are the actual inventors of the invention being claimed in the nonprovisional application, an amendment must be filed requesting deletion of the name or names of the person or persons who are not inventors of the invention being claimed. If the application is involved in an interference, the amendment must comply with the requirements of this section and must be accompanied by a motion under § 1.634. Amendment of the inventorship requires:
(1) A request, signed by a party set forth in § 1.33(b), to correct the inventorship that identifies the named inventor or inventor's being deleted and acknowledges that the inventor's invention is no longer being claimed in the

nonprovisional application; and
(2) The processing fee set forth in § 1.17(i).

A review of the record reveals that petitioner has complied with all the conditions in 37 CFR § 1.48(a). The petition is granted. A corrected filing receipt naming the actual inventors of the above-identified patent, namely, Shenheng Guan, Lynn Van Erden, Robert C. Haushalter, Xiao Ping Zhou and Xuejun Jason Wang will be mailed to applicants.

PETITION GRANTED

Jill Warden
Supervisory Patent Examiner
Art Unit 1743

SENNIGER POWERS
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 5

Kevin J. Zilka
Silicon Valley Group
P.O. Box 721120
San Jose, California 95172-1120

MAILED

DEC 2 9 2003

Technology Center 2100

In re Application of: Joseph Pantuso et al.	)	
Application No. 10/071,549	)	DECISION ON PETITION TO
Filed: February 8, 2002	)	MAKE SPECIAL UNDER
For: FIREWALL SYSTEM AND	)	M.P.E.P. §708.02(II):
METHOD WITH NETWORK	)	INFRINGEMENT
MAPPING CAPABILITIES	)	

This is a decision on the petition, filed May 14, 2003, requesting to make the above-identified application special under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement.

A grantable petition under 37 C.F.R. §1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R.§1.117(h) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed: and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the prior art. Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims.

Applicants' submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for expedited examination.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FREDRIKSON & BYRON P.A.
4000 PILLSBURY CENTER
200 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1425

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AUG 2 6 2002

OFFICE OF PETITIONS

In re Application of :
Klaus Hartig et al :
Application No. 10/071,561 : NOTICE
Filed: February 8, 2002 :
Attorney Docket No. 44046.203.180.2 :

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

MAIL

JUL 2 9 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: Richard J. McLaughlin, et al.
Application No. 10/071,579
Filed: February 8, 2002
For: NETWORKED SYSTEM FOR ASSURING SYNCHRONOUS ACCESS TO CRITICAL FACILITIES

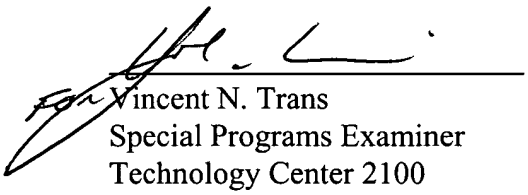
DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed May 16, 2003.

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

The request is **GRANTED**.

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



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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
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WASHINGTON, D.C. 2023
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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

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FEB 2 8 2003

OFFICE OF PETITIONS

In re Application of
Payet
Application No. 10/071,583
Filed: February 7, 2002
For: TEXTILE FINISHING PROCESS
Attorney Docket No.: 7919RX*D2
Pub. No.: US 2002/0138917 A1
Pub. Date: October 3, 2002

DECISION DISMISSING PETITION

This is in response to a request for a corrected patent application publication under 37 CFR 1.221(b) and a petition under 37 CFR 1.183 to suspend the rule for correction of patent application publication under 37 CFR 1.221(b), which were filed on January 14, 2003.

The instant request is that the application be republished deleting the various patent assignment-related documents, which are not part of the patent application and are included as pages 16-29 of the published patent application. Petitioner argues that the time period for requesting a corrected publication under 37 CFR 1.221(b) should be extended. Petitioner argues that applicant observed that the publication improperly included the extra pages on December 18, 2002, when the images of the publication were viewed and petitioner notes that the extra pages are not apparent in the non-image version of the document.

The petition is **DISMISSED**.

On February 7, 2002, applicant filed the instant application with an appendix including the various assignment-related documents, which were published as pages 16-29 of the patent application publication.

37 CFR 1.221(b) indicates that the Office will grant a request for a corrected or revised publication "only when the Office makes a material mistake which is apparent form Office records" and that the request "must be filed within two months form the date of patent application publication". A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The application was correctly published under current Office procedure, as appendices are included in patent application publications. The appendices are not viewable in the text

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

version of the document and are only viewable in the image version document, which is the Official version, as the appendices are not converted to text and instead a treated as drawings. Additionally, the inclusion of assignment information would not be a material error, as the information would not affect the public's ability to appreciate the technical disclosure of the patent application publication, determine the scope of the publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

Suspension of the rules under 37 C.F.R. § 1.183 may be granted only "[i]n an extraordinary situation, when justice requires ...." The rule places the determination of whether a situation is "extraordinary," and whether justice requires waiver, within the discretion of the Commissioner of Patents and Trademarks. *Nitto Chem. Indus. Co. v. Comer,* 39 USPQ2d 1778, 1780 n.4 (D.D.C. 1994). The facts presented on the record do not establish an extraordinary situation within the meaning of § 1.183. Petitioner has not established any special circumstances or equities that would require suspension of the rules in the interests of justice.

There is no adequate showing that the Office published the application incorrectly or that petitioner was prevented from filing his request within the time period.. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable due care and diligence. *United States v. Lockheed Petroleum Servs.*, 709 F.2d 1472, 1475 (Fed. Cir. 1983).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(a)(7). Accordingly, as authorized, the required $130.00 petition fee will be charged to Deposit Account No. 04-1133.

Any request for republication under 37 CFR 1.221(a), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Box PGPUB
Commissioner for Patents
Washington DC 20231

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 1700 to await further examination in due course.

Telephone inquiries regarding this communication should be directed to Mark Polutta at (703)308-8122.

Karin Ferriter

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 4

Kevin J. Zilka
Silicon Valley Group
P.O. Box 721120
San Jose, California 95172-1120

MAILED

OCT 2 4 2002

Technology Center 2100

In re Application of: Joseph J. Pantuso et al.)
Application No. 10/071,586)
Filed: February 8, 2002)
For: SYSTEM, METHOD AND COMPUTER PROGRAM PRODUCT FOR A FIREWALL SUMMARY INTERFACE)

DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P. §708.02(II): INFRINGEMENT

This is a decision on the petition, filed October 11, 2002, requesting to make the above-identified application special under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement.

A grantable petition under 37 C.F.R. §1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R.§1.117(h) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed: and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the prior art. Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims.

Applicants' submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for expedited examination.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KREMBLAS, FOSTER, PHILLIPS & POLLICK
7632 SLATE RIDGE BOULEVARD
REYNOLDSBURG, OH 43068

COPY MAILED

FEB 2 4 2005

OFFICE OF PETITIONS

In re Application of :
George G. Pappas :
Application No. 10/071,592 : ON PETITION
Filed: February 8, 2002 :
Attorney Docket No. LUM 163 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 25, 2004, to revive the above-identified application.

The petition is **GRANTED.**

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 1, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 2, 2004.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application file 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
www.uspto.gov

GREENBERG TRAURIG, LLP
77 WEST WACKER DRIVE
SUITE 2500
CHICAGO IL 60601-1732

COPY MAILED

AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Laguna, Alvaro	:	
Application No. 10/071,635	:	DECISION GRANTING PETITION
Filed: February 7, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 44178.02US1	:	

This is a decision on the petition, filed June 30, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional 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 17, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request, which sets forth the projected publication date of October 13, 2005, was previously mailed on July 6, 2005.

The $300.00 publication fee will be charged to petitioner's deposit as previously authorized. Applicant is required to pay the publication fee to avoid abandonment of the application even if the application has not yet been published at the time when the publication fee is due. The Office will continue with the pre-grant publication process until a patent actually issues. This is because there are many instances in which the Office mails a notice of allowance in an application but the application does not issue as a patent in regular course. Therefore, the Office will not discontinue the pre-grant publication process until a patent has actually issued. Since the Office cannot discontinue the pre-grant publication process during the last two to four weeks of the publication process, this will result in a few applications being issued as patents and subsequently being published as patent application publications. The Office will refund the publication fee if the application is not published as a patent application publication, but will not refund the publication fee if the application is published as a patent application publication, even if it is published after the patent issues.

Accordingly, applicant may file a request for a refund of the publication fee after four (4) weeks from the issue date of the patent. A request for refund filed before four (4) weeks from the issue date is premature and will be disregarded. Requests for a refund of the publication fee should be directed to the Pre-Grant Publication Division of the Office of Publications at Mail Stop PGPUB.

This matter is being referred to the Publishing Division to await a reply to the outstanding Notice of Allowance mailed June 15, 2005. Failure to timely reply will again result in the abandonment of the application.

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

Liana Chase

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

UNITED STATES PATENT
AND TRADEMARK OFFICE

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

Date Mailed: July 27, 2009
Patent No. :7,522,556 B2
Ser. No. :10/071641
Issued : April 21, 2009
Inventor(s) :Wag Hanna, et al.
Title :SIGNAL RECOGNITION IN AN ON-FREQUENCY RECOGNITION IN AN ON-FREQUENCY REPEATER

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, attorney agent/firm) 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 certificate of correction will issue for the remaining errors noted in your request.

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.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1540

Marshall, Gerstein & Borun LLP
233 S. Wacker Drive, Ste. 6300
Sears Tower
Chicago, Il 60606-6357

MD/mt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
2421 N.W. 41ST STREET
SUITE A-1
GAINESVILLE, FL 32606-6669

COPY MAILED

MAR 1 3 2003

OFFICE OF PETITIONS

In re Application of
Bernard Bihain, Barbara Bour and Lydie Bougoueleret
Application No.10/071,645
Filed: February 6, 2002
Attorney Docket No. 92.US2.CIP
Title of Invention: SCHIZOPHRENIA RELATED GENE AND PROTEIN

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed August 26, 2002.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor, Barbara Bour, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition indicates the application papers were sent to the inventor's last known address via Express Mail. Petitioner has provided evidence the package was received. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that she 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.

A one month extension of time fee has been charged to deposit account 50-1181. Petitioner had two months to respond to the Notice to File Missing Parts mailed on June 18, 2002. The certificate of mailing indicates August 19, 2002 one day after the reply period.

The change of correspondence address submitted with the petition and again on November 27, 2002 has been entered and made of record.

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petition 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

Barbara Bour
11360 Dalby Place
San Diego, CA 92126

In re Application of
Bernard Bihain, Barbara Bour and Lydie Bougoueleret
Application No.10/071,645
Filed: February 6, 2002
Attorney Docket No. 92.US2.CIP
Title of Invention: SCHIZOPHRENIA RELATED GENE AND PROTEIN

LETTER

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MAR 1 3 2003

OFFICE OF PETITIONS

Dear Ms. Bour:

You Barbara Bour are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

Frank C. Eisenschenk
SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
2421 N.W. 41ST STREET
SUITE A-1
GAINESVILLE, FL 32606-6669

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WASHINGTON, D.C. 20231
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OIPE JC73
APR 30 2003
PATENT & TRADEMARK OFFICE

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MAR 17 2003

Paper No. 8

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
2421 N.W. 41ST STREET
SUITE A-1
GAINESVILLE, FL 32606-6669

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MAR 13 2003

OFFICE OF PETITIONS

In re Application of
Bernard Bihain, Barbara Bour and Lydie Bougoueleret
Application No.10/071,645
Filed: February 6, 2002
Attorney Docket No. 92.US2.CIP
Title of Invention: SCHIZOPHRENIA RELATED GENE AND PROTEIN

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

RECEIVED
MAY 15 2003
TECH CENTER 1600/2900

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The petition is GRANTED.

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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.

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This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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OIPE JC73
APR 30 2003
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MAY 15 2003
TECH CENTER 1600/2900

Barbara Bour
11360 Dalby Place
San Diego, CA 92126

In re Application of
Bernard Bihain, Barbara Bour and Lydie Bougoueleret
Application No.10/071,645
Filed: February 6, 2002
Attorney Docket No. 92.US2.CIP
Title of Invention: SCHIZOPHRENIA RELATED GENE AND PROTEIN

LETTER

COPY MAILED

MAR 13 2003

OFFICE OF PETITIONS

Dear Ms. Bour:

You Barbara Bour are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

Frank C. Eisenschenk
SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
2421 N.W. 41ST STREET
SUITE A-1
GAINESVILLE, FL 32606-6669

UNITED STATES 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. 102904
DEC 1 2004

Robert N. Crouse
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
Raleigh NC 27627

In re Application of:
Woon-Yong Park
Serial No.: 10/071,647
Filed: February 08, 2002
Attorney Docket No.: **53597.1501**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed February 23, 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 Robert N. Crouse, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed to Hae-Chan Park at McGuire Woods LLP , at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Hae-Chan Park
McGuire Woods LLP
1750 Tysons Boulevard, Suite 1800
McLean, VA 22102-4215

UNITED STATES 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. 111904

DEC 1 2004

Myers, Bigel, Sibley & Sajovec
PO Box 37428
Raleigh, NC 27627

In re Application of:
Park *et al.*
Serial No.: 10/071,647
Filed: February 8, 2002
Attorney Docket No.: **5649-596REI**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed February 23, 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 Robert N. Crouse, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed Hae-Chan Park, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Hae-Chan Park
McGuire Woods LLP
1750 Tysons Blvd., Suite 1800
McLean, VA 22102-4215

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COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 7

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

COPY MAILED

FEB 27 2003

OFFICE OF PETITIONS

In re Application of :
Wang, Dong, and Meehan :
Application No.: 10/071,667 :
Filed: February 8, 2002 : DECISION ACCORDING
Attorney Docket No: OSTEONICS 3.0-380 : STATUS UNDER
For: POROUS METALLIC SCAFFOLD FOR : RULE 47(a)
TISSUE GROWTH :

This is in response to the petition under 37 CFR 1.47(a), filed October 15, 2002.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on April 2, 2002, indicating that petitioner did not file a proper oath or declaration in compliance with 37 CFR 1.63. The Notice also advised petitioner that a $130.00 surcharge was also due because a proper oath or declaration was not timely filed. The Notice set forth a period of reply of two months from the mailing date of the Notice.

In response thereto, petitioner filed the instant petition along, a request for an extension of time within the fourth month, and several accompanying exhibits through which petitioner established that the inventor Wang has refused constructively to join the prosecution of the above-cited application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Patent Publications for further processing.

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

6/27/05

In re Application of :
Charles J. Kuehmann, et al : NOTICE OF WITHDRAWAL
Serial No. 10/071,688 : FROM ISSUE
Filed: February 02, 2002 : UNDER 37 CFR 1.313(b)
For: **NANOCARBIDE PRECIPITATION STRENGTHENED ULTRAHIGH-STRENGTH, CORROSION RESISTANT STRUCTRUAL STEELS**

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 Roy King at (571) 272-1244.

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

BANNER & WITCOFF, LTD
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

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

THEROX, INC.
2400 MICHELSON DRIVE
IRVINE, CA 92612

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JAN 24 2003

OFFICE OF PETITIONS

In re Application of :
Patterson et al. :
Application No. 10/071,702 :
Filed: February 8, 2002 :
Attorney Docket No. PA084-US :

DECISION ON PETITION

This is a decision on the petition filed on April 30, 2002, requesting the application be accorded a filing date of February 8, 2002, including page 47 of the specification.

The petition is **granted**.

The application was filed on February 8, 2002. However, on March 1, 2002, the Initial Patent Examination Division mailed a Notice to File Corrected Application Papers, noting, *inter alia*, that page 47 of the specification appeared to have been omitted from the application.

In response, Petitioner files the instant petition wherein Petititoner argues that page 47 of the specification was included among 56 pages of specification filed initially, on February 8, 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 56 pages of specification filed on February 8, 2002.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of 56 pages of specification, by this Office on February 8, 2002. Petitioner has also re-submitted page 47 of 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 copy of page 47 of the specification, supplied on April 30, 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 February 8, 2002, and an indication that 56 pages of specification, including page 47 of the specification, were present on filing.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Christina Tartera Donnell for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Conferee: Christina Donnell, Esq.

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 18 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Edmund Kwan
10397 Las Ondas Way
Cupertino, CA 95014

Paper No. 7

In re application of : **DECISION ON PETITION**
Edmund Ming Kwan : **TO MAKE SPECIAL**
Application No. 10/071,768 : **(MANUFACTURE)**
Filed: February 7, 2002
For: BILLING METHOD AND SYSTEM
FOR COLLABORATION SOLUTIONS

This is a decision on the petition under 37 C.F.R §1.102(d) filed May 10, 2002 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in MPEP 708.02, item I: Prospective Manufacture.

The petition is **DENIED**.

MPEP 708.02 states that a Petition to Make Special based on Prospective Manufacture 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) the possession by the prospective manufacturer of sufficiently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) or that sufficiently available capital and facilities will be made available upon grant of a patent, with the proviso that if the prospective manufacturer is an individual a corroborating statement from a responsible party is required; (B) that the prospective manufacturer will not begin or increase production unless certain that the patent will be granted; (C) that the prospective manufacturer obligates themselves to manufacture the invention in the U.S. in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and (D) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed May 10, 2002 includes all of the requirements above except fully meeting items (A) and (C). With regard to both items, a problem stems from the fact that the applicant is claiming a method or system of doing business. As such, there is nothing to "manufacture". One cannot be obligated to manufacture in the future, or state the nature of the facilities to manufacture, something that has no physical presence. The petition does talk about incorporating the inventive method into software, and while software arguably may be considered "manufactured", applicant is not claiming software. Further with regard to item (A), the nature of any manufacturing facilities is not stated.

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. Petitioner should promptly submit such 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.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

snm/snm : 6/12/02

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

OCT 28 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Edmund Kwan
10397 Las Ondas Way
Cupertino, CA 95014

Paper No. 10

In re application of
Edmund Ming Kwan
Application No. 10/071,768
Filed: February 7, 2002
For: BILLING METHOD AND SYSTEM FOR COLLABORATION SOLUTIONS

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on July 9, 2002 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM: 10/22/02

THE SPE/EXAMINER NEEDS TO FILL OUT THE FOLLOWING PRIOR TO A DECISION BEING MADE ON THE PETITION TO MAKE SPECIAL

☑ THERE IS NO RESTRICTION/ELECTION REQUIRED IN THIS CASE

IB

☐ THERE IS A RESTRICTION/ELECTION REQUIRED AND THE ATTORNEY HAS ELECTED WITHOUT TRAVERSE

☐ THERE IS A RESTRICTION/ELECTION REQUIRED AND THE ATTORNEY HAS REFUSED TO ELECT WITHOUT TRAVERSE (MAKE SURE ATTORNEY KNOWS THAT HIS PETITION TO MAKE SPECIAL WILL BE DENIED IF HE REFUSES TO ELECT OR IF HE ELECTS WITH TRAVERSE)

PLEASE RETURN THE CASE ASAP ~~TO:~~

STEVEN MEYERS **CPK5-8T06**

(UNDER NO CIRCUMSTANCES SHOULD AN OFFICE ACTION BE ISSUED PRIOR TO THE PETITION BEING DECIDED)

Igor,

See me about this F.H.

Thanks,

John

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SHEMWELL MAHAMEDI LLP
4880 STEVENS CREEK BLVD, SUITE 201
SAN JOSE, CA 95129

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MAY 05 2006
OFFICE OF PETITIONS

In re Application of	:	
Kwan, Edmund Ming	:	DECISION ON PETITION
Application No. 10/071,768	:	TO WITHDRAW
Filed: February 7, 2002	:	FROM RECORD
Attorney Docket No. PA2354US	:	

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 2, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys associated with Customer Number 30554 has been revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206.

David Bucci
Petitions Examiner
Office of Petitions

cc: PATENT LAW GROUP LLP
2635 NORTH FIRST STREET
SUITE 223
SAN JOSE CA 95134

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATENT LAW GROUP LLP
2635 NORTH FIRST STREET
SUITE 223
SAN JOSE CA 95134

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MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Kwan, Edmund Ming	:	DECISION ON PETITION
Application No. 10/071,768	:	TO WITHDRAW
Filed: February 7, 2002	:	FROM RECORD
Attorney Docket No. PA2354US	:	

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 27, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys/agents associated with Customer Number 32566 has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

There is an outstanding Office action mailed February 15, 2007 that requires a reply from the applicant.

All future communications from the Office will continue to be directed to the first below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned Chase at 571-272-3206. All other inquires concerning either the examination or status of the application should be directed to the Publications Division.

Liana Walsh
Petitions Examiner
Office of Petitions

cc:

MARINA PORTNOVA
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025

EDMUND M. KWAN
10397 LAS ONDAS WAY
CUPERTINO, CA 95014

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 3700.

NOV 22 2004

#19

Dority & Manning
PO Box 1449
Greenville, SC 29602-1449

In re Application of	:	
SCHULLER ET. AL.	:	
Serial No.10/071,780	:	Decision on
Filed February 7, 2002	:	Petition
For: Process for the Manufacture of a	:	
Disintegrating Roll of an Open-end Spinning	:	
Apparatus as well as a Disintegrating Roll	:	
Made by such a Process	:	

A Notice of Abandonment for the above-identified application was mailed June 24, 2004. Applicant filed a petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 on August 19, 2004. In the petition applicant provides a detailed review of the facts surrounding the mailing of Office Actions in the application. Further, there is a statement in the examiner's Supplemental Notice of Allowability of May 24 indicating that the time for response would be restarted. However, the time for response was not restarted as requested by the examiner. This failure to restart the time for response is a Patent Office error.

In view of the above, the Notice of Abandonment mailed June 24, 2004 is in error. The **Holding of Abandonment is Withdrawn**. This application is being forwarded to the examiner for appropriate action.

John E. Kittle, Director
Groups 3730 & 3760
Phone: (703) 308-0873
Fax: (703) 305-3590

UNITED STATES 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

GARVEY SMITH NEHRBASS & DOODY, LLC
THREE LAKEWAY CENTER
3838 NORTH CAUSEWAY BLVD., SUITE 3290
METAIRIE, LA 70002

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MAY 1 1 2004

OFFICE OF PETITIONS

In re Application of :
Carroll Diaz :
Application No. 10/071,786 : ON PETITION
Filed: February 7, 2002 :
Attorney Docket No. A01280US :

This is a decision on the petition, filed April 29, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed November 4, 2002, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on July 2, 2003. On April 29, 2004, an amendment and the present petition were filed.

The petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9220. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 3679 for consideration of the amendment filed April 29, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NETWORK APPLICATIONS
495 E. JAVA DRIVE
SUNNYVALE CA 94089

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JAN 13 2009

In re Application of	:	
Reed et al.	:	
Application No.: 10/071790	:	DECISION ON
Filing or 371(c) Date: 02/07/2002	:	PETITION
Title of Invention: METHOD AND SYSTEM	:	
TO QUARANTINE SYSTEM SOFTWARE	:	
AND CONFIGURATION	:	

This is a decision in response to the Petition To Withdraw Holding of Abandonment Based on a Bona Fide Attempt to Respond to the Notice of Allowance – no Fee Required," filed November 13, 2007. The petition is properly treated under 37 CFR 1.181. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability ("Notice"), mailed April 11, 2007. The Notice set a non-extendable three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No complete and proper reply having been received, the application became abandoned on July 12, 2007. A Notice of Abandonment was mailed November 2, 2007.

Petition under 37 CFR 1.181

Applicant files the present petition and asserts that a bona fide attempt to reply to the Notice was made in accordance with 37 CFR 1.135(c). Applicant also notes that a properly signed oath/declaration was filed by Applicant on April 19, 2002.

Applicable Law, Rules and MPEP

35 U.S.C. § 133, Time for prosecuting application, 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 Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

37 CFR 1.135, Abandonment for failure to reply within time period, provides that

> (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.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission. Emphasis supplied.

MPEP 711.03(c)

Analysis and conclusion

In this instance, the Notice of Allowance and Issue Fee Due, and Notice of Allowability set a non-extendable period for reply of three (3) months. Applicant failed to file a complete and proper (timely) reply as the condition of the application required. A review of the Notice of Allowability reveals that the Notice required a Substitute Oath or Declaration to be filed within three (3) months of the mail date of the Notice. Applicant did not file a Substitute oath or declaration in response to the Notice. As such, Applicant failed to file any reply to the Notice of Allowability. The application is properly held abandoned.

Applicant is advised that, as provided in the Manual of Patent Examining Procedure,

> [w]here an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

MPEP 711.03(c).

Here, Applicant failed to file a reply to the Notice of Allowability. There is no dispute as to the status of the application. The application is abandoned. A petition to revive the application (and fee) is the appropriate course of action.

Alternative venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Director for Patents PO 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 regarding this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NETWORK APPLICATIONS
495 E. JAVA DRIVE
SUNNYVALE CA 94089

MAILED

JUN 0 3 2009

OFFICE OF PETITIONS

In re Application of :
Reed et al. :
Application No. 10/071790 : ON PETITION
Filing or 371(c) Date: 02/07/2002 :
Attorney Docket Number: 112056-0033 :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed April 13, 2009.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed April 11, 2007. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on July 12, 2007. A Notice of Abandonment was mailed November 2, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application 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) 272-3232.

/Derek L. Woods/
Derek L. Woods
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)
6772756	2004-08-10	10/071,794	2002-02-09	118-002

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	/jmf/	Date (YYYY-MM-DD)	2008-09-29
Name	Jeffrey Furr	Registration Number	38146

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. 6772756
Issue Date: August 10,2004
Application No. 10071794
Filed: February 9,2002
Attorney Docket No. 118-002

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 29,2008 ,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 September 29,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 04/21/2010

Applicant	: Theodore Conard	: DECISION ON REQUEST FOR
Patent Number	: 7577726	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/071,811	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/07/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **901** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JJGJr: 07-03

Paper No: 7

STEVEN J. FUNK
SPRINT CORPORATION
8140 WARD PARKWAY
KANSAS CITY MO 64114

COPY MAILED

AUG 0 8 2003

OFFICE OF PETITIONS

In re Application of :
McConnell, et al. :
Application No. 10/071,833 : DECISION ON PETITION
Filed: 7 February, 2002 :
Attorney Docket No.: SPRINT1811 :

This is a decision on the petition filed on 12 may, 2003, to revive the instant nonprovisional application under the provisions of 37 C.F.R. §1.137(f), and considered as a petition under 37 C.F.R. §1.137(b).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of Petitioner identifies as "an International Application" filed on 12 November, 2002. However, while Petitioner rescinded his non-publication request in a filing on 18 November, 2002, (within 45 days of the international application filing) Petitioner unintentionally failed to "Notice" the US Patent and Trademark Office within 45 days subsequent to the filing of the international application.[1]

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(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 in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 C.F.R. §1.137(f) must be accompanied by:

[1] While Petitioner alleges that "based on the note in Form PTO/SB/36 (10-01) version explaining generally that 'filing this recision of a previous nonpublication request is considered the notice of a subsequent foreign or international filing required by 35 U.S.C. 122(b)(2)(B)(iii),' " the record reflects that Petitioner did not use that form in his 18 November, 2002 filing.

(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 C.F.R. §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 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(I) has been rescinded. Because the Office data base indicating an actual publication date of 7 August, 2003, a Corrected Filing Receipt, rather than a Notice Regarding Rescission of Nonpublication Request, indicating a projected accompanies this decision on petition.

The application is being forwarded to Technology Center 2100 for further processing in due course.

Inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Encl.: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
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SPRINT
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Von K. McConnell	: DECISION ON REQUEST FOR
Patent Number	: 7634568	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/071,833	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/07/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2312** 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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Washington, D.C. 20231
www.uspto.gov

Paper No. 11

HALEOS INC
3150 STATE STREET
BLACKSBURG VA 24060

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MAY 27 2003

OFFICE OF PETITIONS

In re Application of :
Steinberg, et al. :
Application No. 10/071,871 : DECISION NOTING JOINDER
Filed: February 8, 2002 : OF INVENTOR AND PETITION
Attorney Docket No. 23091/15 : UNDER 37 CFR 1.47(a) MOOT
(ACT-177)

This is in response to the petition under 37 CFR 1.47(a), filed September 10, 2002, and the 37 CFR 1.63 declaration filed March 20, 2003.

The above-identified application was filed on February 8, 2002, without, *inter alia*, an executed oath or declaration. Accordingly, on April 4, 2002, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and the surcharge for its late filing. This Notice set a two month period for reply.

In reply, applicant filed a petition under 37 CFR 1.47(a) on September 10, 2002, and paid the surcharge for late filing of the declaration.[1] To make timely this reply, applicant obtained a three month extension of time and included a Certificate of Mailing dated September 4, 2002.

Before a decision on the petition was rendered, on March 20, 2003 applicant submitted a declaration executed by joint inventors Dan A. Steinberg and Martin G. Meder. The declaration has been found to be in compliance with 37 CFR 1.63.

In view of the **joinder** of the inventors, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be **moot**. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

---

[1] However, petitioner did not submit the $130 petition fee, but included an authorization to charge any additional fees to his Deposit Account. As the $130 petition fee was not charged, that fee has now been charged to Deposit Account No. 50-0369.

The Manual of Patent Examining Procedure states:

> Where a correspondence address has been established on filing of the application or changed pursuant to 37 CFR 1.33(a)(1) (prior to the filing of an executed oath or declaration under 37 CFR 1.63 by any of the inventors), that correspondence address remains in effect upon filing of an executed oath or declaration under 37 CFR 1.63 and can only be subsequently changed pursuant to 37 CFR 1.33(a)(2).[2]

Accordingly, future correspondence in this application will be mailed to the above address as set forth prior to filing of the executed declaration. 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 as set forth in the declaration and given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being forwarded to Technology Center 2800, Group Art Unit 2874, for prosecution.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Brown Rudnick Berlack Israels LLP
One Financial Center
Boston, MA 02111

[2] MPEP 601.03.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Quine Intellectual Property Law Group, P.C.
PO Box 458
Alameda CA 94501

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DEC 27 2005

OFFICE OF PETITIONS

In re Application of :
Downs et al. :
Application No. 10/071,877 : ON PETITION
Filed: February 8, 2002 :
Attorney Docket No. 36-001810US :

This is in response to the petition under 37 CFR 1.137(b), filed September 12, 2005, to revive the above-identified application.

On December 29, 2004, the Office mailed a final Office action, which set a three month shortened statutory period for reply. On June 26, 2005, petitioner submitted a request for an extension of time for response within the third month and an amendment after final. Thereafter, the amendment was entered and made of record. On August 26, 2005, the Office mailed a nonfinal Office action, which set a three month shortened statutory period for reply. To date, the USPTO has not received a response to the Office action of August 26, 2005. Accordingly, the time period for filing a proper response continues to run. Because petitioner may obtain extensions of time to respond under 37 CFR 1.136(a), the application is currently not abandoned. Therefore, the petition is **dismissed** as involving a moot issue.

To avoid abandonment of the application, petitioner must submit a proper response to the Office action of August 26, 2005 with a request for an extension of time for response, and pay the extension of time fee no later than February 26, 2006.

The $1,500.00 petition fee is unnecessary and will be refunded to Deposit Account No. 50-0893.

Petitioner may access the nonfinal Office action of August 26, 2005, via the Patent Application Information Retrieval (PAIR) System, see http://pair-direct.uspto.gov. Any inquiry concerning the Office action or the status of the application should be directed to Examiner Brian J. Sines, Ph.D. at (571) 272-1265.

Telephone inquiries related to this communication may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Paper No. 5

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OFFICE OF PETITIONS

FOGG SLIFER & POLGLAZE, P.A.
P.O. BOX 581009
MINNEAPOLIS, MN 55458-1009

In re Application of
Schkilnik, et al.
Application No. 10/071,887
Filed: February 8, 2002
Attorney Docket No.: 100.041US01
For: BUNDLING/DE-BUNDLING OF LOW FREQUENCY DIGITAL DATA STREAMS

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed April 23, 2002.

The petition is **GRANTED**.

Petitioner has shown that inventor Iris Schkilnik has refused to join in the filing of the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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BELL BOYD & LLOYD
P.O. BOX 1135
CHICAGO, IL 60690-1135

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JUN 2 5 2004

OFFICE OF PETITIONS

In re Application of :
Hideharu Nakajima et al :
Application No. 10/071,909 : ON PETITION
Filed: February 7, 2002 :
Attorney Docket No. 112857-317 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 16, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendment submitted does not *prima facie* placing the application in condition for allowance, no Notice of Appeal (and appeal fee), or a request for continuing application under 37 CFR 1.114 was timely filed. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 17, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $950.00 extension of time submitted with the petition on June 9, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 2814 for processing of the request for continued examination (RCE) under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 10

Dennis H. Lambert & Associates
7000 View Park Drive
Burke, VA 22015

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JUN 12 2003

OFFICE OF PETITIONS

In re Application of :
Arthur A. Krause, et al. :
Application No. 10/071,927 : ON PETITION
Filed: February 7, 2002 :
Attorney Docket No. 56705 CIP-3 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 29, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 2, 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 3, 2003.

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 3700, Art Unit 3765.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry D. Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATRICK D. KELLY
11939 MANCHESTER #403
ST. LOUIS MO 63131

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MAR 2 8 2005

OFFICE OF PETITIONS

In re Application of :
Kevin A. Mansmann :
Application No. 10/071,930 : ON PETITION
Filed: February 8, 2002 :
Attorney Docket No. KM-FLEX-1 :

This is a decision on the petition, filed January 6, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 13, 2004, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained.

The petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 3738 for consideration of the response filed January 6, 2005.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004

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OFFICE OF PETITIONS
ON PETITION

In re Application of :
Robert Blake et al :
Application No. 10/071,949 :
Filed: February 6, 2002 :
Attorney Docket No. 1274-0006M :

This is a decision on the petition under 37 CFR 1.137(b), filed May 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 Notice to File Corrected Application Papers (Notice) mailed April 5, 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 6, 2002.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application 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

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Paper No. 9

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

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MAY 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Robert Blake, et al. :
Application No. 10/071,950 : ON PETITION
Filed: February 6, 2002 :
Attorney Docket No. 1274-006N :

This is a decision on the petition under 37 CFR 1.137(b), filed May 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 Notice to File Corrected Application Papers mailed March 5, 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) was obtained. Accordingly, the above-identified application became abandoned on May 6, 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

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COZEN O'CONNOR P.C.
1900 MARKET STREET
PHILADELPHIA, PA 19103-3508

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JUN 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Eric E. Swayze et al :
Application No. 10/071,978 : ON PETITION
Filed: February 6, 2002 :
Attorney Docket No. IBIS-0403 :

This is a decision on the petition, filed June 23, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 25, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

This matter is being referred to Technology Center AU 1624 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : July 30, 2007 James O. Wilson

Paper No.: _____

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/071,978 Patent No.: 7244847B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Antonio Johnson

Certificates of Correction Branch

703-308-9390 ext. 111

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

James O. Wilson

SPE

1624

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 4

CARR & FERRELL LLP
2225 EAST BAYSHORE ROAD
SUITE 200
PALO ALTO CA 94303

MAILED

APR 2 1 2003

Technology Center 2600

In re Application of	:	
Norrell et al.	:	
Application No. 10/071,980	:	DECISION ON REQUEST TO
Filed: February 6, 2002	:	WITHDRAW AS ATTORNEY
For: LINE POWERED LOOP EXTENDER WITH COMMUNICATIONS, CONTROL, AND DIAGNOSTICS	:	

This is a decision on the request to withdraw as attorney/agent of record filed on March 17, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All attorneys associated with Customer No. 22830 are granted the request for withdraw of attorney/agent. All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Jim H. Salter
Blakely, Sokoloff, Taylor, and Zafman LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROY A. EKSTRAND
3158 REDHILL AVE., STE 150
COSTA MESA CA 92626

COPY MAILED

SEP 26 2005

OFFICE OF PETITIONS

In re Application of :
Donald Vinding. :
Application No. 10/072,011 :
Filed: February 7, 2002 :
Attorney Docket No. 98408 :

ON PETITION

This is a decision on the petition under 37 CFR §1.181, filed August 29, 2005.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Issue Fee Due which was mailed August 17, 2004 and set a 3 month statutory period for reply. Extensions of time pursuant to 37 C.F.R. §1.136(a) were not available. Accordingly, this application became abandoned on November 18, 2004. A Notice of Abandonment was mailed on January 1, 2005.

Petitioner asserts that the Notice of Allowance and Issue Fee Due mailed on August 17, 2004 was never received. A review of the record indicates no irregularity in the mailing of the Notice, 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 Notice of Allowance was not in fact received.

Accompanying the petition is a statement by the practitioner stating the Notice of Allowance and Issue Fee Due was not received and attesting to the fact that a review of docket records indicates the Notice of Allowance and Issue Fee Due was not received. In addition a copy of docket records has been provided. Accordingly, petitioner has provided sufficient information to warrant the withdrawal of the holding of abandonment.

This application is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY and POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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OCT 31 2002

OFFICE OF PETITIONS

In re Application of :
Tchernev et al. : DECISION GRANTING
Application No. 10/072,012 : PETITION
Filed: January 31, 2002 :
Attorney Docket No. 21402-258 :
(CURA-558)

This is a decision on the petition under 37 CFR 1.10(e), filed August 23, 2002, and supplemented on August 30, 2002, and on October 28, 2002, requesting that the above-identified application be accorded a filing date of January 31, 2002.

The petition is **GRANTED**.

Applicants request the acceptance of the application with the filing date of January 31, 2002 on the basis that the application was allegedly deposited in Express Mail service (Express Mail mailing label #EK005153096US) on January 31, 2002, pursuant to the requirements of 37 CFR 1.10, and that the submission was not received by the Patent and Trademark Office.

In support, the petition is accompanied by a copy of the Express Mail mailing label, receipt no. EK005153096US; however, the express mail label is blank. Petitioners aver that the application was deposited for delivery Express Mail Post Office to Addressee on January 31, 2002; but, the post office returned the application as undeliverable on February 8, 2002. Applicants allegedly promptly re-filed the application and the instant petition. In support of this petition, Petitioners submit a copy of the Postal Service Express Mail Tracking and Delivery Confirmation which indicates that EK005153096US was accepted at 7:03 pm on January 31, 2002. The same Express Mail mailing number appears atop the copy of the Application Transmittal sheet submitted with the instant petition.

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 January 31, 2002. Accordingly, the application is accepted as filed on January 31, 2002.

Since the instant petition has been granted, no petition fee is due and none has been charged.

The application is being forwarded to Office of Initial Patent Examination for further processing with a filing date of January 31, 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 14

IVOR R. ELRIFI, PH.D.
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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FEB 19 2003

OFFICE OF PETITIONS

In re Application of	
Tchernev, Spytek, Zerhusen,	
Patturajan, Shimkets, Li, Gangolli,	DECISION REFUSING STATUS
Padigaru, Anderson, Rastelli,	UNDER 37 CFR 1.47(a)
Miller, Gerlach, Taupier, Gusev,	
Colman, Wolenc, Pena, Furtak,	
Grosse, Alsobrook, Lepley, Rieger,	
and Burgess	
Application No. 10/072,012	
Filed: 31 January, 2002	
Atty Dcket No. 21402-258 (Cura 558)	

This is in response to the petition filed under 37 CFR 1.47(a) on 13 December, 2002.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified issue application was filed on 31 January, 2002, without an executed oath or declaration. Accordingly, on 13 May, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application requiring an executed oath or declaration and a surcharge for its late filing as well as a Computer Readable Form of the "Sequence Listing" in

compliance with 37 CFR 1.821-1.825. A two (2) month period for reply was set. In response, on 13 December, 2002, the present petition was filed, along with a five (5) month extension of time and a declaration naming Velizar Tchernev, Kimberly Spytek, Bryan Kerhusen, Meera Patturajan, Richard Shimkets, Li Li, Esha Gangolli, Muralidhara Padigaru, David W. Anderson, Luca Rastelli, Charles E. Miller, Valerie Gerlach, Raymond J. Taupier, Jr., Vladimir Y. Gusev, Steven D. Colman, Adam Ryan Wolenc, Carol E.A. Pena, Katarzyna Furtak, William M. Grosse, John P. Alsobrook II, Denise M. Lepley, Daniel K. Riger, and Catherine E. Burgess as joint inventors and signed by all joint inventors except Lepley on behalf of themselves and joint inventor Lepley.

Petitioners assert that a copy of the declaration and assignment were sent to joint inventor Lepley, but she refused orally to sign and return the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1).

In respect to item (1), petitioners must provide proof that a copy of the application (specification, including claims, drawings, if any, and the declaration) was sent or given to each non-signing inventor at his or her last known address for review.[1] Petitioners may provide proof by providing a copy of the cover letter transmitting the application papers to the non-signing inventors or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign can be alleged

[1] MPEP 409.03(d).

petitioners must show that a copy of the application papers (specification, including claims, drawings, if any, and the declaration) were sent or given to each non-signing inventor. If there is a written refusal, petitioners must provide a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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OIPE JC569 JUN 19 2003 PATENT & TRADEMARK OFFICE

SC

Paper No. 14

4/19; 8/19 Final

IVOR R. ELRIFI, PH.D.
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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FEB 19 2003

OFFICE OF PETITIONS

In re Application of	:	
Tchernev, Spytek, Zerhusen,	:	
Patturajan, Shimkets, Li, Gangolli,	:	DECISION REFUSING STATUS
Padigaru, Anderson, Rastelli,	:	UNDER 37 CFR 1.47(a)
Miller, Gerlach, Taupier, Gusev,	:	
Colman, Wolenc, Pena, Furtak,	:	
Grosse, Alsobrook, Lepley, Rieger,	:	
and Burgess	:	
Application No. 10/072,012	:	
Filed: 31 January, 2002	:	
Atty Docket No. 21402-258(Cura 558)	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 13 December, 2002.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified issue application was filed on 31 January, 2002, without an executed oath or declaration. Accordingly, on 13 May, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application requiring an executed oath or declaration and a surcharge for its late filing as well as a Computer Readable Form of the "Sequence Listing" in

compliance with 37 CFR 1.821-1.825. A two (2) month period for reply was set. In response, on 13 December, 2002, the present petition was filed, along with a five (5) month extension of time and a declaration naming Velizar Tchernev, Kimberly Spytek, Bryan Kerhusen, Meera Patturajan, Richard Shimkets, Li Li, Esha Gangolli, Muralidhara Padigaru, David W. Anderson, Luca Rastelli, Charles E. Miller, Valerie Gerlach, Raymond J. Taupier, Jr., Vladimir Y. Gusev, Steven D. Colman, Adam Ryan Wolenc, Carol E.A. Pena, Katarzyna Furtak, William M. Grosse, John P. Alsobrook II, Denise M. Lepley, Daniel K. Riger, and Catherine E. Burgess as joint inventors and signed by all joint inventors except Lepley on behalf of themselves and joint inventor Lepley.

Petitioners assert that a copy of the declaration and assignment were sent to joint inventor Lepley, but she refused orally to sign and return the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1).

In respect to item (1), petitioners must provide proof that a copy of the application (specification, including claims, drawings, if any, and the declaration) was sent or given to each non-signing inventor at his or her last known address for review.[1] Petitioners may provide proof by providing a copy of the cover letter transmitting the application papers to the non-signing inventors or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign can be alleged

[1] MPEP 409.03(d).

petitioners must show that a copy of the application papers (specification, including claims, drawings, if any, and the declaration) were sent or given to each non-signing inventor. If there is a written refusal, petitioners must provide a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 17

IVOR R. ELRIFI, PH.D.
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

COPY MAILED

JUN 25 2003

OFFICE OF PETITIONS

In re Application of :
Tchernev, Spytek, Gerhusen, :
Pattaragan, Shimkets, Li, Gangolli, : DECISION ACCORDING STATUS
Padigaru, Anderson, Rastelli, : UNDER 37 CFR 1.47(a
Miller, Gerlach, Taupier, Gusev, :
Colman, Wolenc, Pena, Furtak, :
Crosse, Alsobrook, Lapley, Rieger, :
and Burgess :
Application No. 10/070,012 :
Filed: 31 January, 2002 :
Atty Docket No. 31412-268 (Cura 558):

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 18 June, 2003.

The petition under 37 CFR 1.47(a) is **GRANTED**.

Petitioners has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been provided with the application papers. Specifically, the declaration of registered patent attorney George M. Yahwak establishes that the non-signing inventor was sent a copy of the application papers but refused in writing to sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6913.

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

Killworth, Gottman, Hagan & Schaeff, L.L.P.
Suite 500
One Dayton Centre
Dayton, OH 45402-2023

COPY MAILED

JUN 19 2002

OFFICE OF PETITIONS

In re Application of :
Paul J. Rudeck et al. :
Application No. 10/072,015 : DECISION REFUSING STATUS
Filed: February 7, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. MIO 0053 VA :

This is in response to the petition filed under 37 CFR 1.47(a)[1] on February 7, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION**. Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on February 7, 2002 with a declaration naming Paul J. Rudeck, Francis Benistant and Kelly Hurley as joint inventors and signed only by joint inventors Rudeck and Hurley but not by joint inventor Benistant. The present petition was also filed, in which petitioners assert that "efforts to contact joint inventor Benistant to execute the papers required for filing this patent application by first-class mail at his last known address have been unsuccessful."

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign. Accordingly, the petition will be treated as a petition under 37 CFR 1.47(a).

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1) and (3). In regards to item (1), petitioners have not submitted sufficient evidence to prove that a copy of the application was sent or given to the non-signing inventor. Petitioners must show proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) were sent or given to the non-signing inventor for review.[2] Petitioners should provide a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Petitioners must also present proof that the non-signing inventor refuses to sign the declaration. If there is a written refusal, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

In regards to item (3), while the petition indicates that a check was enclosed in the amount of $130.00 for payment of the fee required by 37 CFR 1.17(i), no such payment is found in this application file.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Assistant Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[2] MPEP 409.03(d).

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

KILLWORTH, GOTTMAN, HAGAN & SCHAEFF, L.L.P.
SUITE 500
ONE DAYTON CENTRE
DAYTON, OH 45402-2023

COPY MAILED

AUG 13 2002

OFFICE OF PETITIONS

In re Application of
Paul J. Rudeck et al.
Application No. 10/072,015
Filed: February 7, 2002
Attorney Docket No. MIO 0053 VA

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the request for reconsideration under 37 CFR 1.47(a), filed on July 8, 2002.

The petition is again 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 February 7, 2002 without an executed oath or declaration and a petition to accord 37 CFR 1.47 in the absence of inventor Francis Benistant's signature.

The petition filed February 7, 2002 was dismissed in a decision mailed June 19, 2002.[1]

In response, on July 8, 2002, petitioner filed the present renewed petition under 37 CFR 1.47(a), with copies of a November 22, 2000 letter addressed to Mr. Benistant at his last known address, dispatching the application papers to him. Additional proof consists of a copy of the envelope, returned by the postal service with a notation that "no such address" exists and an indication that an Internet search for the inventor provided no additional information as to the whereabouts of Mr. Benistant.

We would reiterate that 37 CFR 1.47(a) requires a diligent effort be made to locate the non-signing inventor and maintain that petitioner has still not submitted sufficient evidence to prove that diligent efforts have been made to locate and obtain the

[1]Petitioner, *inter alia*, failed to submit sufficient evidence to prove that a copy of the application was sent or given to the non-signing inventor.

signature of the non-signing inventor.

Petitioners should verify the information provided concerning the last known address and resend the application packet to Mr. Benistant. We would suggest that the Internet databases used to locate Mr. Benistant are not the most reliable sources for locating an individual.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Assistant Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

KILLWORTH, GOTTMAN, HAGAN & SCHAEFF, L.L.P.
SUITE 500
ONE DAYTON CENTRE
DAYTON, OH 45402-2023

COPY MAILED

NOV 2 5 2002

OFFICE OF PETITIONS

In re Application of :
Paul J. Rudeck et al. :
Application No: 10/072,015 : DECISION REFUSING JOINDER
Filed: February 7, 2002 :
Attorney Docket No. MIO 0053 VA :

This is in response to the request for reconsideration filed November 13, 2002 for joinder of a prior non-signing inventor.

The petition is dismissed.

A request for joinder will be grantable if promptly renewed within TWO MONTHS of this mailing, accompanied by a new oath or declaration. Extensions of time under 37 CFR 1.136(a) are not available.

The above identified application was filed without an executed oath or declaration. A petition to accord status under 37 CFR 1.47(a) was filed February 7, 2002 and dismissed June 19, 2002. A request for reconsideration was filed July 8, 2002 and dismissed August 13, 2002 again for failure to meet the requirements of a grantable petition under 37 CFR 1.47 (a).

Comes now the request for reconsideration and joinder with a Declaration signed by the previously non-signing inventor, Francis Benistant and a request for a one month extension of time. However, petitioners have failed to provide an acceptable oath or declaration.

Petitioners indicate in the cover letter that the previously non-signing inventor did not update the address information on the declaration prior to signing it and thus the address he was located at is different from that found in the declaration. The address found in the declaration is to be the last known address of the non-signing inventor, 3996 S. Federal Way Apt #C106, Boise, ID 83705. However, as petitioner notes in the request for reconsideration, the last known address of Francis Benistant is 35640 Fremont Blvd. #104, Fremont, CA 94536.

The post office address of each inventor must be stated in the oath or declaration. *See*, 37 CFR 1.63. The post office address means the address at which he or she customarily receives mail. *See*, MPEP 605.03.

Additionally, the oath or declaration has been altered, however, the alterations have not

been initialed and/or dated as is required by 37 CFR 1.52(c). Specifically, the declaration signed by inventor Paul J. Rudeck has been altered; however, the alteration has not been initialed by Paul J. Rudeck. A properly executed oath or declaration which complies with 37 CFR 1.67(a) is required. See, MPEP 605.04(a).

At this writing, this application has not been accorded status under 37 CFR 1.47(a) nor has joinder of the previously non-signing inventor been effectuated.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 10

KILLWORTH, GOTTMAN, HAGAN & SCHAEFF, L.L.P.
SUITE 500
ONE DAYTON CENTRE
DAYTON, OH 45402-2023

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FEB 0 5 2003

OFFICE OF PETITIONS

In re Application of
Paul J. Rudeck et al.
Application No. 10/072,015
Filed: February 7, 2002
Attorney Docket No. MIO 0053 VA

: DECISION NOTING JOINDER OF
: INVENTOR AND PETITION UNDER
: 37 CFR 1.47(a) MOOT

Papers filed on January 21, 2003 (by facsimile transmission) in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on November 25, 2002, included a Declaration signed by the previously nonsigning inventors Francis Benistant and Paul J. Rudeck.

In view of the joinder of the inventors, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

TODD HOCHWITZ
1402 ORD STREET
LARAMIE, WY 82070

COPY MAILED

LETTER AUG 2 3 2002

OFFICE OF PETITIONS

In re Application of :
Kent Henry, Mark Watson, Shanen :
Onken-Shaw, Christopher McKee, :
Craig McKee, Ronny Harris, Neal :
Syverson, Zachary Gray, Stanley :
Smith and Todd Hochwitz :
Application No. 10/072,016 :
Filed: February 6, 2002 :
Title: Multi-parameter Monitoring :
Tool Assembly :

Dear Mr. Hochwitz:

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 for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Marsh Fischmann & Breyfogle LLP
Suite 411
3151 S. Vaughn Way
Aurora, CO 80014

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

Marsh Fischmann & Breyfogle LLP
Suite 411
3151 S. Vaughn Way
Aurora, CO 80014

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AUG 2 3 2002

OFFICE OF PETITIONS

In re Application of :
Kent Henry, Mark Watson, :
Shanen Onken-Shaw, : DECISION ACCORDING STATUS
Christopher McKee, Craig McKee, : UNDER 37 C.F.R. §1.47(a)
Ronny Harris, Neal Syverson, :
Zachary Gray, Stanley Smith and :
Todd Hochwitz :
Application No. 10/072,016 :
Filed: February 6, 2002 :
Title: Multi-parameter Monitoring :
Tool Assembly

This is in response to the petition, filed June 19, 2002, under 37 C.F.R. §1.47(a)[1].

The petition is **GRANTED**.

The above-identified application was filed on February 6, 2002, with a partially executed declaration. Kent Henry, Mark Watson, Shanen Onken-Shaw, Christopher McKee, Craig McKee, Ronny Harris, Neal Syverson, Zachary Gray, Stanley Smith and Todd Hochwitz were named as joint inventors. However, the declaration was missing the signatures of inventors Craig McKee, Stanley Smith and Todd Hochwitz. Accordingly, on March 7, 2002, applicants were mailed a "Notice to File Missing Parts of Application," requiring an oath or declaration signed by the three inventors and a surcharge for its late filing. This Notice set a period for reply of two months from the mailing date of the notice, with extensions of time obtainable under §1.136(a).

In response, rule 47 applicants filed a declaration executed by previously nonsigning joint inventors Smith and McKee on behalf of themselves and on behalf of nonsigning inventor Hochwitz, with the instant petition (and fee); paid the surcharge for late filing under 1.16(e); and requested (and submitted payment for) a two-month extension of time to make timely the response. Rule 47 applicants maintain that status under §1.47(a) is proper because inventor Hochwitz has refused to join in the application.

In support thereof, applicants submitted a declaration of patent attorney Kenneth Johnson describing steps undertaken to have the

---

[1] A grantable petition under 37 C.F.R. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (oath or declaration, and specification, claims, 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.

refusing inventor review the application and execute the declaration. Further, documentary evidence, including copies of cover letters transmitting the application papers to inventor Hochwitz by registered mail at his last known address and E-mail communications regarding joining in the application, was submitted. Rule 47 applicants state, and provide documentary evidence that, inventor Hochwitz has refused to claim the mailing of the application papers. Further, the E-mail communications include one in which inventor Hochwitz states that "I have several other commitments that do not afford me the ability to address the proper filing of the patents in a timely fashion. So I respectfully must decline the opportunity to work with In-Situ at this time."

Having considered the evidence, it is concluded that applicants have shown that inventor Hochwitz has refused to join in the application. The declarations filed February 6, 2002 and June 19, 2002, and the petition have been reviewed and found in compliance with 37 C.F.R. §§1.63 and 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO CA 92101

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DEC 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Kocol, Bryan	:	
Application No. 10/072,037	:	DECISION ON PETITION
Filed: February 5, 2002	:	
Attorney Docket No. 109476-014UTL	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 24, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 2178 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAIL Paper No. 7

SAWYER LAW GROUP LLP
P.O. Box 51418
Palo Alto CA 94303

DEC 0 5 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Curtis R. Priem :
Application No. 10/072,043 : DECISION ON REQUEST TO
Filed: February 6, 2002 : WITHDRAW AS ATTORNEY
For: **APPARATUS AND METHOD FOR RENDERING CHARACTERS INTO A MEMORY** :

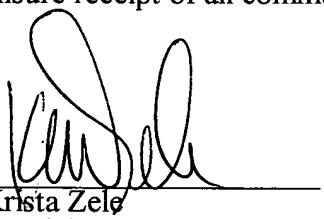
This is a decision on the request to withdraw as attorney/agent of record filed on November 15, 2002.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Joseph A. Sawyer is removed from record.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.



Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: NVIDIA Corporation
2701 San Tomas Expressway
Santa Clara, CA 95050

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Rosenman & Colin LLP
575 Madison Avenue
New York NY 10022-2585

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MAY 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Satoshi Nakamura et al. :
Application No. 10/072,058 :
Filed: February 8, 2002 :
Attorney Docket No. FUSA 19.421 :

DECISION
ON PETITION
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed November 3, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision. Extensions of time are available under 37 CFR 1.136. See 37 CFR 41.31(d).

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 Stephen K. Cronin at (571) 272-6051 or, in his absence, the undersigned at (571) 272-3217.

The application file is being forwarded to Tech Center Art Unit 2684.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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OCT 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Satoshi Nakamura et al :
Application No. 10/072,058 :
Filed: February 8, 2002 :
Attorney Docket No. FUSA 19.421

ON PETITION

This is a decision on the petition, filed September 30, 2005 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 13, 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 2684 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 4

CARR & FERRELL LLP
2225 EAST BAYSHORE ROAD
SUITE 200
PALO ALTO CA 94303

MAILED

APR 1 1 2003

Technology Center 2600

In re Application of	:	
Norrell et al.	:	
Application No. 10/072,091	:	DECISION ON REQUEST TO
Filed: February 6, 2002	:	WITHDRAW AS ATTORNEY
For: LOOP EXTENDER WITH COMMUNICATIONS, CONTROL, AND DIAGNOSTICS	:	

This is a decision on the request to withdraw as attorney/agent of record filed on March 17, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All attorneys associated with Customer No. 22830 are granted the request for withdraw of attorney/agent. All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Jim H. Salter
Blakely, Sokoloff, Taylor, and Zafman LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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CROSBY, HEAFEY, ROACH & MAY
1901 AVENUE OF THE STARS, SUITE 700
LOS ANGELES, CA 90067

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APR 16 2003

OFFICE OF PETITIONS

In re Application of	:	
James Klassen	:	
Application No. 10/072,095	:	DECISION REFUSING STATUS
Filed: February 8, 2002	:	UNDER 37 CFR 1.47(b)
For: ROTARY POSITIVE DISPLACEMENT DEVICE	:	

This is in response to the petition under 37 CFR 1.47(b), filed July 18, 2002.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on February 8, 2002 without an executed oath or declaration and naming James Klassen as the sole inventor.

Accordingly, on March 12, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on July 18, 2002, a petition under 37 CFR 1.47(b); a copy of the "Notice to File Missing Parts of Nonprovisional Application;" a copy of the declaration and power of attorney; the surcharge fee; a three month extension of time fee; a statement of the last known address of the inventor; a declaration by JoAnne S. Redmann with supporting exhibits; a petition under 37 CFR 1.78(a)(6); and a preliminary amendment were received.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C.§§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest; and

(6) proof of irreparable damage.

Applicant lacks item (2) as set forth above.

As to item (2), a signed declaration in compliance with 37 CFR 1.63 and 1.64 must be made by the 37 CFR 1.47(b) applicant which sets forth the citizenship, residence, and mailing address of the putative party having proprietary interest. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary or Treasurer) may sign the oath or declaration. Where an oath or declaration is being signed on behalf of an assignee, note MPEP Section 324, which, however, presupposes that an executed assignment by the inventor has been recorded, or submitted for recordation. Attention is directed to 37 CFR 1.63(a)(3); MPEP §§ 605.02, 605.03. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 is REQUIRED. See MPEP 409.03(b).

In order to expedite consideration of the petition under 37 CFR 1.47(b), petitioner may wish to consider submitting the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Karen Creasy.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

By Fax: (703) 308-6916
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Karen Creasy at (703) 305-8859.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 9

CROSBY, HEAFEY, ROACH & MAY
1901 AVENUE OF THE STARS, SUITE 700
LOS ANGELES, CA 90067

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APR 1 6 2003

OFFICE OF PETITIONS

In re Application of :
James Klassen :
Application No. 10/072,095 : ON PETITION
Filed: February 8, 2002 :
Attorney Docket No. 26537.00100 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed July 18, 2002, to accept an unintentionally delayed claim under 35 U.S.C.§ 119(e) for the benefit of prior-filed provisional Application No. 60/267,969, filed February 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.

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. 60/267,969, filed February 8, 2001.

The instant pending nonprovisional application was filed on February 8, 2002, within twelve months of the filing date of prior filed provisional application, Application No. 60/267,969, which was filed on February 8, 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 and the transmittal letter filed with the application.

The current procedure where a claim for priority under 37 CFR 1.78(a)(5) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim

for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR 1.78(a)(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. 60/267,969 in the oath or declaration and the transmittal letter filed with the application, 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 will remain in the Office of Petitions to await a reply to the Rule 1.47 decision. Then, the application will be forwarded to the Office of Initial Patent Examination for pre-examination processing. Afterwards, the application will be forwarded to Technology Center Art Unit 3746 for processing the amendment filed July 18, 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 prior-filed provisional Application No. 60/267,969, filed on February 8, 2001.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] Note MPEP 201.11 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 12

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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JUL 3 0 2003

OFFICE OF PETITIONS

In re Application of
James B. Klassen
Application No. 10/072,095
Filed: February 8, 2002
For: ROTARY POSITIVE
DISPLACEMENT DEVICE

:DECISION NOTING JOINDER OF
:INVENTOR AND PETITION UNDER
:37 CFR 1.47(b) MOOT

The papers filed by facsimile transmission on July 16, 2003 in response to a "Decision Refusing Status Under 37 CFR 1.47(b)," mailed April 16, 2003, included a Declaration signed by previously nonsigning inventor James B. Klassen in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(b) is moot; this application does not have any rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(b).

This application is being forwarded to the Office of Initial Patent Examination for further pre-examination processing.

Inquiries related to this decision may be addressed 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6820313
Issue Date: November 23,2004
Application No. 10072113
Filed: February 8,2002
Attorney Docket No. FR010012

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 2,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 2,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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

OCT - 2 2002

#7

Y. ROCKY TSAO
FISH & RICHARDSON P.C.
225 FRANKLIN STREET
BOSTON MA 02110-2804

In re Application of :
Ching Song et al :
Serial No.: 10/072,128 : PETITION TO MAKE SPECIAL
Filed: February 15, 2001 :
Attorney Docket No.: 10634-005001 :

This is in response to applicants' petition filed September 26, 2002, 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. Therefor the petition is **GRANTED**.

The application will be placed in storage pending applicants' reply to the Office action mailed August 23, 2002.

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) 305-3599.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 20

Fish & Richardson
225 Franklin Street
Boston, MA 02110-2804

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NOV 21 2003

OFFICE OF PETITIONS

In re Application of
Shutsung Liao, et. al.
Application No. 10/072,128
Filed: February 8, 2002
Attorney Docket No. 10634-005001

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 16, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed February 20, 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 after midnight May 20, 2003.

In response to the final Office action, petitioner submitted with the instant petition $665 for the petition to revive fee, a Request for Continued Examination (RCE) under 37 CFR 1.114, $385 for the RCE filing fee, and an amendment.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

The application file is being forwarded to Technology Center 1600, for further processing.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

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JAN 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Tomi Hakkarainen et al	:	
Application No. 10/072,147	:	DECISION GRANTING PETITION
Filed: February 7, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 4208-4027	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 18, 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 December 10, 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 2132 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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SALIWANCHIK, LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
P O BOX 142950
GAINESVILLE, FL 32614-2950

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APR 18 2007

OFFICE OF PETITIONS

In re Application of :
Bernard Bihain et al :
Application No. 10/072,159 : DECISION ON PETITION
Filed: February 5, 2002 :
Attorney Docket No. 29.US4.DIV :

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 2006, 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 November 22, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed August 22, 2006. Accordingly, the date of abandonment of this application is November 23, 2006. A Notice of Abandonment was mailed on April 11, 2007, subsequent to the filing of the present petition to revive.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400, (2) the petition fee of $1,500, and (3) a proper 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) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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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
10/072,174	02/06/2002	2681	1094	UTL 00050	8	35	4

CONFIRMATION NO. 1304

Kyocera Wireless Corp.
Attn: Patent Department
PO Box 928289
San Diego, CA 92192-8289

CORRECTED FILING RECEIPT

OC000000014368397

Date Mailed: 11/15/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Robert Bruce Ganton, San Diego, CA;

Power of Attorney:

William Kolegraff–41125

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/05/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/072,174

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

System and method for personal area network (PAN) distributed global optimization

Preliminary Class

455

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Robert E. Fischell
14600 Viburnum Drive
Dayton, MD 21036

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AUG 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Robert E. Fischell, et al. :
Application No. 10/072,177 : DECISION ON PETITION
Filed: February 11, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. S1-02

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 3, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on February 11, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been

included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Marianne Jenkins at (703) 306-3475.

This application is being referred to Technology Center Art Unit 1615 for appropriate action on the amendment filed May 3, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

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JOE DALE REED
704 West 11th Street
Brady TX 76825

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FEB 1 6 2005

OFFICE OF PETITIONS

In re Application of :
Joe Dale Reed :
Application No. 10/072,178 : DECISION ON PETITION
Filed: June 24, 2002 :
Attorney Docket No. REED0908 :

This is a decision on the petition under 37 CFR §1.137(b), filed November 19, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on August 12, 2003. The final Office Action set a three (3) month shortened statutory period for reply. A Notice of Appeal and a one (1) month extension of time was requested. However, the fee required for the Notice of Appeal fees was not submitted. Accordingly, this application became abandoned on December 13, 2003. A Notice of Abandonment was mailed on July 26, 2004.

The requirements for the filing of a grantable petition under 37 CFR §1.137(b) have been met. This Petition is hereby **Granted**.

An untimely request for a three month extension of time was filed on November 19, 2004. 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 six (6) month statutory period expired on February 12, 2004. Petitioner is ineligible for any extensions of time. Accordingly, the $490.00 will be refunded to deposit account 19-0513.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the

delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR §10.18(b). In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This application is being forwarded to Technology Center 3700 for further processing of the Request for Continued Examination (RCE) and the amendment submitted with the instant petition.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: David E. Allred
Schmeiser, Olsen & Watts LLP
18 E. University DR. # 101
Mesa, AZ 85201

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Paper No. 5

Marsh Fischmann & Breyfogle
Suite 411
3151 S. Vaughn Way
Aurora, CO 80014

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OFFICE OF PETITIONS

In re Application of
Kent et al.
Application No. 10/072,203
Filed: February 6, 2002
Attorney Docket No. 42074-00391

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 29, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed March 11, 2002, which set a period for reply of (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were submitted. Accordingly, the above-identified application became abandoned on May 12, 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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PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN TX 78701-4039

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Joseph Stephen Gordon et al :
Application No. 10/072,204 :
Filed: February 7, 2002 :
Attorney Docket No. 064441.0227 :

This is a decision on the petition, filed June 28, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 2, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 1756 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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MAIL

Paper No. 8

Dennis Fernandez Esq.
FERNANDEZ & ASSOCIATES
P.O. Box D
Menlo Park, CA 94026-6402

NOV 26 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Mayak et al.
Application No.: 10/072,212
Filed: February 7, 2002
For: SYSTEM FOR ARCHITECTURE AND RESOURCE SPECIFICATION AND METHODS TO COMPILE THE SPECIFICATION ONTO HARDWARE

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1. 36 and 10.40(c) filed July 31, 2003.

A Power Of Attorney Under 37 CFR § 1. 36 was filed on September 2, 2003. The Power Of Attorney revoked all prior Powers Of Attorney and appointed FENWICK & WEST LLP as the attorneys of record of the instant application. The Power Of Attorney of September 2, 2003 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by FENWICK & WEST LLP.

For the above stated reasons, the request is DISMISSED AS MOOT.

No further communication to you regarding this application will be made.

James R. Matthews

/for/ Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: David D. Schumann
FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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Kawai Lau
Morrison & Foerster LLP
Suite 500
3811 Valley Centre Drive
San Diego CA 92130-2332

In re Application of :
Strong, Azab & Reaves :
Application No. 10/072,215 : DECISION ON PETITION
Filing date: February 6, 2002 :
Attorney Docket No. 273012012100 :
For: METHOD TO PREVENT VISION LOSS :

This is a decision on the petition under 37 CFR 1.182, filed September 16, 2004 (certificate of mailing date September 13, 2004), to change the name of the second listed named inventor.

The petition is **GRANTED**.

The second named inventor will be changed from "Mohammad Azab Ali" to "Mohammad Azab". A replacement filing receipt reflecting this change is enclosed.

The file is being returned to Technology Center G.A.U. 1614.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: replacement filing receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

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OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Application of :
Inventors: Narinder Singh and Darren Davis :
Application No. 10/072,220 : DECISION ON PETITION
Filed: February 8, 2002 :
Attorney Docket No. 9623/374 :
Title: AUTOMATIC FLIGHT MANAGEMENT IN AN ONLINE MARKETPLACE :

This is a decision on the petition under 37 CFR §1.183(a), filed May 20, 2002, to waive rule 37 CFR §1.52(e) and accept the application without an incorporation by reference of the material on the compact disc in both the specification and the transmittal letter.

Petitioner seeks to submit a compact disc containing electronic representations of the references.

When a compact disc has been submitted as part of an application, one is required to list the files on the disc in the application and on the transmittal sheet[1]. In the instant case, applicant seeks a waiver of the requirement and seeks to submit such a listing on compact disc rather than in the application and on the transmittal sheet. Petitioner has demonstrated that a listing of the files would be over 1,000 pages long. Petitioner has submitted a "table" on computer disc listing each file on the disc by file name, file size, and creation date.

The petition under 37 CFR 1.183(a) is **granted**[2].

Petitioner should note that petitioner, and not the Office is responsible for identifying and correcting any difference between the file list on the compact disc and the files actually on the compact disc.

This file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Beverly Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

1 See 37 C.F.R. § 1.52(e)(5).
2 Petitioner should note that the Office has not reviewed this file, and as such, no representation is made by this decision pertaining to the acceptability of the file format used for the creation of this file. See 37 C.F.R. § 1.52(e)(7).

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Paper No.

BRINKS HOFER GILSON & LIONE /
YAHOO! OVERTURE
P.O. BOX 10395
CHICAGO IL 60610

Certificate of Correction
MAY 23 2006

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OFFICE OF PETITIONS

In re Application of :
Singh et al. : DECISION ON APPLICATION
Application No. 10/072,220 : FOR
Filed: February 8, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No. 9623/374 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)" filed January 5, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to seven (7) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is seven hundred ninety-seven (7) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 27, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On January 5, 2005, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants dispute the reduction of 110 days associated with their filing of a response to the Notice to File Missing Parts of Application mailed April 4, 2002. Applicants state that their response was received on

[1] PALM records indicate that the Issue Fee payment was also received on January 24, 2005.

July 8, 2002, and thus, the period of reduction should be 4 days, not 110 days. In support thereof, applicants submit a copy of their itemized return postcard date-stamped July 8, 2002.

Applicants state that a terminal disclaimer has not been filed in this application.

Applicants are correct. A review of the record reveals that the reduction of 110 days is not warranted. Applicants have shown that the response was received in the Office on July 8, 2002. Further, the response included a complete reply to the Notice. As such, the response was filed outside the three-month period under 37 CFR 1.704(b), but only by 4 days. Applicants did 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 April 4, 2004, by 4 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is seven hundred ninety-seven (7) 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 Office has, thereby, forwarded the file to the Office of Patent Publication so that a patent can be issued. The patent term adjustment indicated on the patent will include any additional patent term accrued for Office delay in issuing the patent after the issue fee had been paid and all outstanding requirements met.

Petitioner is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application 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 also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

JEFFREY H. CANFIELD
BELL, BOYD & LLOYD LLC
P.O. BOX 1135
CHICAGO, IL 60690-1135

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JUL 11 2002

OFFICE OF PETITIONS

In re Application of
Koichi Yoshikawa et al
Application No. 10/072,223
Filed: February 6, 2002
Attorney Docket No. 112857-316

: DECISION GRANTING
: PETITION

This is a decision on the petition filed June 14, 2002, to accord the above-identified application a filing date of February 6, 2002, instead of January 6, 2002.

The petition is **granted**.

37 CFR 1.10(c) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of February 6, 2002.

This application is being forwarded to the Office of Initial Patent Examination Division for further processing with a filing date of February 6, 2002, and for mailing of a Notice requiring the submission of an executed declaration and surcharge fee.

Telephone inquiries concerning this matter may be directed to Karen Creasy at (703) 305-8859.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 7

SIERRA PATENT GROUP, LTD.
P.O. BOX 6149
STATELINE NV 89449

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OFFICE OF PETITIONS

In re Application of :
James B. Schrempp et al :
Application No. 10/072,238 : DECISION GRANTING PETITION
Filed: February 5, 2002 : UNDER 37 CFR 1.137(f)
Attorney Docket No. AMC-005CIB :

This is a decision on the petition, filed May 12, 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 February 3, 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.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

This application is being forwarded to Technology Center Art Unit 2143 for examination in due course.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SIERRA PATENT GROUP, LTD.
1657 HWY 395, SUITE 202
MINDEN, NV 89423

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AUG 0 9 2007

OFFICE OF PETITIONS

In re Application of	:	
Schrempp et al.	:	
Application No. 10/072,238	:	ON PETITION
Filed: February 5, 2002	:	
Attorney Docket No. AMC-005CIB	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 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 2100 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 10

THOMAS H. CLOSE
PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NY 14650-2201

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OCT 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Gerard Ernst et al :
Application No. 10/072,250 : ON PETITION
Filed: February 7, 2002 :
Attorney Docket No. 81263ACEB :

This is a decision on the petition under 37 CFR 1.137(b), filed October 15, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 24, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 25, 2003.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

The application is being forwarded to Technology Center AU 1746 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

Mark A. Conklin
Notaro & Michalos P.C.
100 Dutch Hill Road, Suite 110
Orangeburg, New York 10962-2100

SEP 17 2002

In re Application of	:	
A. Sid	:	
Application No. 10/072,273	:	**DECISION ON PETITION**
Filed: February 8, 2002	:	**TO MAKE SPECIAL**
Attorney Docket No. H49-047 US	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed August 5, 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) the required petition fee of $130.00, (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, © 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. Pham, Special Program Examiner
TC 2800 - Semiconductor, 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

BEYER WEAVER & THOMAS LLP
PO BOX 70250
OAKLAND CA 94612-0250

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FEB 2 2 2005

OFFICE OF PETITIONS

In re Application	: DECISION ON APPLICATION
Dwayne Nelson	: FOR PATENT TERM ADJUSTMENT
Application No. 10/072,277	: AND
Filed: November 5, 2001	: NOTICE OF INTENT TO ISSUE
Patent No. 6,843,725	: CERTIFICATE OF CORRECTION
Issued: January 18, 2005	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705," filed January 18, 2005. Patentee requests that the patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred seventy-nine (179) days to two hundred sixty-one (261) days.

The application for patent term adjustment is **GRANTED** to the extent indicate herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **two hundred fifty-seven (257) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 18, 2005, the above-identified application matured into U.S. Patent No. 6,843,725. The instant request for reconsideration filed January 18, 2005 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 one hundred seventy-nine (179) days. Patentee states that the determination of patent term adjustment days should not have been assessed applicant delay of eighty-two (82) days for the late filing of the issue fee.

Patentee states that the patent is not subject to a terminal disclaimer.

The Office determined a patent term adjustment of one hundred seventy-nine (179) days based on an adjustment for PTO delay of two hundred sixty-one (261) days pursuant to 35 U.S.C. §154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), and eighteen (18) and thirty-six (36) days pursuant to 35 U.S.C. §154(b)(1)(A)(ii) and 37 C.F.R. §1.703(a)(2), reduced by Applicant's delay of eighty-two (82) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. §1.704(b). The PTO delay of 261 days has been reviewed and found to be correct. The adjustment of 82 days is at issue.

Patentee asserts that the issue fee was timely paid pursuant to 37 C.F.R. §1.704(b) on September 27, 2004, in response to a Notice of Allowance mailed on June 23, 2004. A review of the application file reveals that the issue fee was filed on September 27, 2004, made timely for purposes of avoiding abandonment by including a Certificate of Mailing dated September 23, 2004. However, Certificates of Mailings are not taken into account in the calculation of patent term adjustment. See 37 C.F.R. §1.703(f). Accordingly, applicant delay should have been assessed as four (4) days.

In view of the above, the patent term adjustment at the time of issuance was two hundred fifty-seven (257) days (261 days of PTO delay, reduced by 4 days of applicant delay). Issuance of a certificate of correction pursuant to 35 U.S.C. §254 and 37 C.F.R. §1.322 is appropriate.

The $200.00 fee set forth in 37 C.F.R. §1.18(e) has been charged to Deposit Account No. 50-0388, as authorized.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. §254 and 37 C.F.R. §1.322. The certificate of

correction will indicate that the term of the above-identified patent is extended or adjusted by **two hundred fifty-seven (257) days** subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Draft Certificate of Correction

JUL 16 2002
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTOR: Densen Cao

DOCKET: 5061.8A P

TITLE: METHOD FOR CURING COMPOSITE MATERIAL

SERIAL NO.: 10/072,302

FILED: February 5, 2002

COPY OF PAPERS ORIGINALLY FILED

Assistant Commissioner for Patents
Washington, DC 20231

Response to Notice to File Missing Parts

Honorable Assistant Commissioner:

Enclosed please find the following:

(1) Declaration for Patent Application,

(2) Assignment,

(3) Petition for Extension of Time, and

(4) Check for Fee.

Applicant believes that this is fully responsive to the Notice to File Missing Parts. Please record the assignment.

Respectfully submitted this 10th day of July, 2002.

Daniel McCarthy
Reg. No. 36,600
Parsons, Behle & Latimer
201 South Main Street, Suite 1800
Salt Lake City, Utah 84111
(801) 532-1234

OIPE JC106 JUL 16 2002 PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/072,302	02/05/2002	Densen Cao	5061.8a P

CONFIRMATION NO. 1021

FORMALITIES LETTER

OC000000007885109

Parsons, Behle & Latimer
201 South Main Street, Suite 1800
P.O. Box 45898
Salt Lake City, UT 84145-0898

COPY OF PAPERS ORIGINALLY FILED

Date Mailed: 04/17/2002

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 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).*
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 870.**

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

07/19/2002 AOSMAN1 00000051 10072302

01 FC:101 740.00 OP
02 FC:105 130.00 OP

JUL 1 6 2002

JC106

PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTOR: Densen Cao

DOCKET: 5061.8A P

TITLE: METHOD FOR CURING COMPOSITE MATERIAL

SERIAL NO.: 10/072,302

FILED: February 5, 2002

COPY OF PAPERS ORIGINALLY FILED

Assistant Commissioner for Patents
Washington, DC 20231

Certificate of Mailing

Honorable Assistant Commissioner:

I hereby certify that the attached Petition for Extension of Time is being submitted via fist class mail with the United States Postal Service in an envelope with sufficient postage addressed to "Assistant Commissioner for Patents, Washington, DC 20231" on this 10th day of July, 2002.

Daniel McCarthy
Reg. No. 36,600
Parsons, Behle & Latimer
201 South Main Street, Suite 1800
Salt Lake City, Utah 84145-0898
(801) 532-1234

OIPE JC106 JUL 16 2002 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTOR: Densen Cao

DOCKET: 5061.8A P

TITLE: METHOD FOR CURING COMPOSITE MATERIAL

SERIAL NO.: 10/072,302

FILED: February 5, 2002

COPY OF PAPERS ORIGINALLY FILED

Assistant Commissioner for Patents
Washington, DC 20231

Petition for Extension of Time

Honorable Assistant Commissioner:

Applicant received a Notice to File Missing Parts with a mailing date of April 17, 2002 with a two month period permitted for a response. Applicant hereby petitions for a one (1) month extension of time in which to file a response. A check for the fee (large entity) is enclosed. This extends the time for response through July 17, 2002.

Respectfully submitted this 10th day of July, 2002.

Daniel McCarthy
Reg. No. 36,600
Parsons, Behle & Latimer
201 South Main Street, Suite 1800
Salt Lake City, Utah 84145
Tel: (801) 536-6830 or (801) 532-1234
Fax: (801) 536-6111
Email: DMcCarthy@pblutah.com

07/19/2002 AOSMANI 00000051 10072302
03 FC:115 110.00 OP

JC106 JUL 16 2002 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTOR: Densen Cao

DOCKET: 5061.8A P

TITLE: METHOD FOR CURING COMPOSITE MATERIAL

SERIAL NO.: 10/072,302

FILED: February 5, 2002

COPY OF PAPERS ORIGINALLY FILED

Assistant Commissioner for Patents
Washington, DC 20231

Certificate of Mailing

Honorable Assistant Commissioner:

I hereby certify that the attached Response to Notice to File Missing Parts and fee are being submitted via fist class mail with the United States Postal Service in an envelope with sufficient postage addressed to "Assistant Commissioner for Patents, Washington, DC 20231" on this 10th day of July, 2002.

Daniel McCarthy
Reg. No. 36,600
Parsons, Behle & Latimer
201 South Main Street, Suite 1800
Salt Lake City, Utah 84111
(801) 532-1234

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VAN COTT, BAGLEY, CORNWALL & MCCARTHY
P.O. BOX 45340
SALT LAKE CITY UT 84145-0340

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MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Cao :
Application No. 10/072,302 : ON PETITION
Filed: February 5, 2002 :
Attorney Docket No. 29618-62164 :
For: METHOD FOR CURING COMPOSITE MATERIALS

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 2007 (certificate of mailing date February 6, 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)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to timely reply to the Notice of Allowance and Fee(s) Due, mailed August 17, 2006, which set a three month period for reply. This application became abandoned on November 18, 2006. A Notice of Abandonment was mailed on December 13, 2006.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed;

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The 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 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (1) above.

Petitioner has not returned a completed PTOL-85B or an equivalent. See the August 17,2 006 Notice of Allowance and Fee(s) Due: How to Reply to this Notice, II.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

The February 8, 2007 Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address has been entered and made of record. Please find enclosed documents reflecting the requested changes.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries 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

Enclosures: Notices Regarding Change of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/072,302	02/05/2002	Densen Cao	5061.8A P

CONFIRMATION NO. 1021

CAO GROUP, INC.
4358 SOUTH SKYHAWK DRIVE
WEST JORDAN, UT 84084

OC000000023063075

Date Mailed: 03/23/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/08/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Shirene W. Brantley

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/072,302	02/05/2002	Densen Cao	5061.8A P

CONFIRMATION NO. 1021

OC000000023063117

63466
VAN COTT, BAGLEY, CORNWALL & MCCARTHY
P.O. BOX 45340
SALT LAKE CITY, UT 84145-0340

Date Mailed: 03/23/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/08/2007. .

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.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/072,302	02/05/2002	Densen Cao	5061.8A P

CONFIRMATION NO. 1021

OC000000023063075

CAO GROUP, INC.
4358 SOUTH SKYHAWK DRIVE
WEST JORDAN, UT 84084

Date Mailed: 03/23/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/08/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Shirene W. Bradley

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
NEW ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. BOX 45340
SALT LAKE CITY UT 84145-0340

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OCT 12 2007

OFFICE OF PETITIONS

In re Application of :
Cao :
Application No. 10/072,302 : ON PETITION
Filed: February 5, 2002 :
Attorney Docket No. 29618-62164 :
For: METHOD FOR CURING COMPOSITE MATERIALS

This is a decision on the petition under 37 CFR 1.137(b), filed June 27, 2007 (certificate of mailing date June 25, 2007), to revive the above-identified application.

This application became abandoned for failure to timely reply to the Notice of Allowance and Fee(s) Due, mailed August 17, 2006, which set a three month period for reply. This application became abandoned on November 18, 2006. A Notice of Abandonment was mailed on December 13, 2006.

Applicant has submitted a proper reply in the form of a $1,400.00 issue fee, the $300.00 publication fee and a completed PTOL-85b, an acceptable statement of the unintentional nature of the delay in responding to the August 17, 2006 Notice of Allowance and Fee(s) Due, and the $1,500.00 petition fee.

The petition is **granted**.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.go

J.C. Patents
4 Venture, Suite 250
Irvine, CA 92618

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JAN 22 2007

OFFICE OF PETITIONS

In re Application of
Bing-Chang Wu
Application No. 10/072,339
Filed: 02-07-2002
Attorney Docket No. TKHR5060-D

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed December 22, 2006, to withdraw the holding of abandonment for the above-identified application.

This application was held abandoned for failure to respond timely to the Notice of Allowance and Fee(s) Due, mailed January 11, 2005, which set a three-month statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned on April 12, 2005. On May 16, 2005, the Office mailed a Notice of Abandonment.

In the petition, the practitioner asserted the he did not receive the Notice of Allowance and Fee(s) Due or the Notice of Abandonment because the USPTO erroneously mailed the Notices to an incorrect correspondence address. The practitioner stated that on October 22, 2004, applicant filed a Change of Correspondence Address, requesting that the Office use the address associated with Customer Number 23900, which is the same address of: 4 Venture, Suite 250, Irvine, CA 92618, for mailing correspondence associated with this application. Accordingly, the practitioner requested that the Office withdraw the holding of abandonment.

A review of the record indicates that applicant filed a Change of Correspondence Address with the USPTO on October 22, 2004, which was not entered. The Office has corrected the correspondence address as requested. In view of the above, the petition under 37 CFR 1.181 is **GRANTED**.

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.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH, NJ 07033-0530

COPY MAILED

APR 0 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Hey et al.	:	
Application No. 10/072,340	:	DECISION ON APPLICATION
Filed: February 6, 2002	:	FOR
Atty Docket No. CN01383K	:	PATENT TERM ADJUSTMENT
	:	

This is a decision on the "REQUEST FOR RECONSIDERATION UNDER § 1.705(b) OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) INDICATED IN THE NOTICE OF ALLOWANCE," filed November 17, 2004. Applicants request that the patent issuing from the above-identified patent application be afforded a patent term adjustment of forty-four (44) additional days, to fifty-nine (59) days. The sole basis for this request is the Office taking in excess of three years to issue the patent.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Patentees are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentee may seek such consideration without payment of an additional fee. However, as to all other bases for

seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Petitioner is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

COPY MAILED

JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Joseph A. Kozlowski et al :
Application No. 10/072,354 : ON PETITION
Filed: February 6, 2002 :
Attorney Docket No. AL01381K :

This is a decision on the petition, filed June 3, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 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 (571) 272-3208.

The examiner of Technology Center AU 1625 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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SEP 19 2005

J C PATENTS, INC.
4 VENTURE, SUITE 250
IRVINE, CA 92618

In re Application of:
Kuan-Yu Fu
Serial No.: 10/072,362
Filed: February 7, 2002
For: MOSFET DEVICE

DECISION ON PETITION

This is a decision on the petition filed January 24, 2005, via facsimile transmission, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition is GRANTED.

A non-final Office action was mailed April 5, 2004, setting a three-month shortened statutory period for filing a response. In the apparent absence of a response, the application was held abandoned and a Notice of Abandonment was mailed January 14, 2005.

Petitioner asserts that a response was timely filed. To support the assertion, petitioner has submitted: 1) a copy of a response entitled "Amendment and Response to Office Action" which bears a Certificate of Transmission under 37 C.F.R. § 1.8(a) dated July 6, 2004, 2) a copy of Auto-Reply Facsimile Transmission form the USPO acknowledging receipt of a 15-page facsimile transmission on July 6, 2004.

The file record does not include the 15-page transmission submitted on July 6, 2004.

The petition satisfies the conditions for accepting a response filed using a certificate of transmission under 37 C.F.R. § 1.8(a) but lost after having being received by the USPTO, except it does not include a copy of the sending unit's report confirming successful transmission. The copy of the Auto-Reply from the USPTO is hereby accepted in lieu of the copy of the sending unit's report. In the future, it is advised that the copy of the sending unit's report be included with the petition. Accordingly, the petition is granted.

The Notice of Abandonment mailed January 14, 2005 is hereby vacated and the holding of abandonment withdrawn.

The copy of the amendment submitted on January 24, 2005 with the petition is accepted since the USPTO has apparently lost the response originally submitted.

The technical support staff will process the amendment and the examiner will prepare an appropriate action in response to the amendment.

James L. Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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PHARMACIA CORPORATION
GLOBAL PATENT DEPARTMENT
POST OFFICE BOX 1027
ST. LOUIS, MO 63006

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FEB 01 2005

OFFICE OF PETITIONS

In re Application of	:	
Alice C. Martino et al	:	
Application No. 10/072,368	:	ON PETITION
Filed: February 7, 2002	:	
Attorney Docket No. C-3527/1/US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 12, 2004, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 13, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1617.

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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MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
SUITE 3300
MILWAUKEE, WI 53202

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APR 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Chris J. Wendel :
Application No. 10/072,376 : DECISION GRANTING PETITION
Filed: February 6, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 077077-9140-00 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 5, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 27, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Karen Creasy for

Frances M. Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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JUN 30 2009

OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,395,503	:	ON PETITION
Pravetz	:	under 37 CFR 1.183
Issue Date: July 1, 2008	:	
Application No. 10/072,382	:	and
Filed: February 6, 2002	:	
Attorney Docket No. 07844-494001	:	ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued and on the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d), both of which were filed on December 22, 2008.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On July 1, 2008, the above-identified application matured into U.S. Patent No. 7,395,503, with a revised patent term adjustment of 553 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee makes this request, in view of the "exceptional" situation presented by the recent decision in *Wyeth v. Dudas*, No. 07-1492 (D.D.C. Sept. 30, 2008).

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on July 1, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until December 22, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by September 1,

2008, the date two months from the date this patent issued, July 1, 2008. Rather, on December 22, 2008, nearly three months after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

Preliminarily, it is recognized that the two-month requirement of 37 CFR 1.705(d) is a requirement of the regulations and not a statutory requirement. The statute, 35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director. But, the statute allows the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include pursuant to 37 CFR 1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent. As

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[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

such, it is within the Director's authority to waive the two-month requirement.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is the "exceptional" situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008). Specifically, petitioner states that in Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under 37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days." Petitioner argues that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent.

First, of all, the issuance of the Wyeth Opinion is not an extraordinary situation. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A)[2], Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for

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[2] 35 U.S.C. 154(b)(4)(A) APPEAL OF PATENT TERM ADJUSTMENT DETERMINATION. – (A) An applicant dissatisfied with a determination made by the Director under paragraph (3) shall have remedy by a civil action against the Director filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent. Chapter 7 of title 5 shall apply to such action. Any final judgment resulting in a change to the period of adjustment of the patent term shall be served on the Director, and the Director shall thereafter alter the term of the patent to reflect such change.

Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent, is not compelling. Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chose not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision.

The key consideration in determining whether waiver is warranted is whether the circumstance that led to petitioner failing to meet the two-month requirement was an extraordinary situation where justice requires waiver.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

Moreover, justice does not require waiver of the two-month requirement. Justice requires that the Office continue to devote its resources to the adjudication of timely filed requests for reconsideration under 37 CFR 1.705(b) and (d). Further, upon ultimate resolution of the interpretation of 37 CFR 1.702, justice requires that the Office determine consistent with relevant law and practice, and appropriate Court or legislative guidance, the applicability of any changes as to all affected patentees who failed to timely seek administrative remedy, and thus, could not seek judicial review.

In addition, given that the law only allows 180-days for both the filing of a petition and for the Office's consideration of that petition petitioner's unexplained nearly two-three month delay, after the Opinion in Wyeth, in filing the petition weighs against them. The remaining period to file a civil action does not so distinguish petitioner's situation from any other patentee who failed to meet the two-month deadline for filing a

request for reconsideration of patent term adjustment determination such that justice requires waiver.

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed December 22, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to eight hundred fifteen (815) days.

On July 1, 2008, the above-identified application matured into U.S. Patent No. 7,395,503 with a revised patent term adjustment of 553 days. The instant request for reconsideration was filed more than five months after the issuance of the patent, on December 22, 2008.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

The request for waiver of 37 CFR 1.705(d) pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

PALM INTRANET

PTA Calculations for Application: 10/072382			
Application Filing Date:	02/06/2002	PTO Delay (PTO):	661
Issue Date of Patent:	07/01/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	108
Post-Issue Petitions:	0	Total PTA (days):	553
PTO Delay Adjustment:	0		

no dispute

File Contents History

Number	Date	Contents Description	PTO	APPL	START
76.5	06/11/2008	PTA 36 MONTHS			
76	07/01/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
75	05/27/2008	EXPORT TO FINAL DATA CAPTURE			
74	05/16/2008	DISPATCH TO FDC			
73	05/16/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
71	05/14/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
70	05/12/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
67	04/23/2008	ISSUE FEE PAYMENT VERIFIED			
66	04/23/2008	ISSUE FEE PAYMENT RECEIVED			
65	04/21/2008	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		72	
64	02/15/2008	FINISHED INITIAL DATA CAPTURE			
63	01/28/2008	EXPORT TO INITIAL DATA CAPTURE			
62	01/24/2008	MAIL NOTICE OF ALLOWANCE			
61	01/23/2008	ISSUE REVISION COMPLETED			
60	01/23/2008	DOCUMENT VERIFICATION			
59	01/23/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
58	01/22/2008	NOTICE OF ALLOWABILITY			
57	11/08/2007	DATE FORWARDED TO EXAMINER			
56	10/25/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
55	11/08/2007	DATE FORWARDED TO EXAMINER			
	10/25/07	REQUEST FOR CONTINUED EXAMINATION			

54	10/25/2007	(RCE)			
53	11/08/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
52	10/25/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
51	09/25/2007	MAIL APPEALS CONF. PROCEED TO BPAI			
50	09/20/2007	PRE-APPEALS CONFERENCE DECISION - PROCEED TO BPAI			
49	07/09/2007	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
48	07/09/2007	NOTICE OF APPEAL FILED		32	46
47	07/09/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
46	03/07/2007	MAIL FINAL REJECTION (PTOL - 326)			
45	03/05/2007	FINAL REJECTION			
44	02/21/2007	DATE FORWARDED TO EXAMINER			
43	01/29/2007	RESPONSE AFTER NON-FINAL ACTION		2	42
42	10/27/2006	MAIL NON-FINAL REJECTION			
41	10/25/2006	NON-FINAL REJECTION			
40	10/06/2006	DATE FORWARDED TO EXAMINER			
39	07/26/2006	AMENDMENT AFTER FINAL REJECTION			
38	08/14/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
37	07/26/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
36	05/25/2006	MAIL FINAL REJECTION (PTOL - 326)			
35	05/24/2006	FINAL REJECTION			
34	03/30/2006	DATE FORWARDED TO EXAMINER			
33	03/21/2006	RESPONSE AFTER NON-FINAL ACTION			
32	12/28/2005	MAIL NON-FINAL REJECTION			
31	12/22/2005	NON-FINAL REJECTION			
30	11/02/2005	DATE FORWARDED TO EXAMINER			
29	10/26/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
28	11/02/2005	DATE FORWARDED TO EXAMINER			
27	10/26/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
26	11/02/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
25	10/26/2005	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			

24	10/24/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
23	07/26/2005	MAIL FINAL REJECTION (PTOL - 326)			
22	07/25/2005	FINAL REJECTION			
21	07/11/2005	CASE DOCKETED TO EXAMINER IN GAU			
20.7	04/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		2	16
20	04/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	04/28/2005	REFERENCE CAPTURE ON IDS			
17	05/06/2005	DATE FORWARDED TO EXAMINER			
16	04/26/2005	RESPONSE AFTER NON-FINAL ACTION			
15	01/26/2005	MAIL NON-FINAL REJECTION	661		-1
14	01/24/2005	NON-FINAL REJECTION			
13	09/02/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	07/21/2004	CASE DOCKETED TO EXAMINER IN GAU			
11	05/18/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	02/21/2004	CASE DOCKETED TO EXAMINER IN GAU			
9	06/02/2003	PRELIMINARY AMENDMENT			
8.7	09/23/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	09/23/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	06/25/2002	CASE DOCKETED TO EXAMINER IN GAU			
6	05/08/2002	TRANSFER INQUIRY TO GAU			
5	03/07/2002	APPLICATION DISPATCHED FROM OIPE			
4	03/04/2002	APPLICATION IS NOW COMPLETE			
2	02/21/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/06/2002	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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: James D. Pravetz	Art Unit	: 2178
Patent No.	: 7,395,503	Examiner	: Kyle R. Stork
Issue Date	: July 1, 2008	Conf. No.	: 2559
Serial No.	: 10/072,382		
Filed	: February 6, 2002		
Title	: DYNAMIC PREVIEW OF ELECTRONIC SIGNATURE APPEARANCE		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

12/22/08

PETITION UNDER 37 C.F.R. §1.183

Assignee hereby petitions the Commissioner under 37 C.F.R. §1.183 for a suspension of 37 C.F.R. §1.705(d) and (e) and for acceptance of the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," which is filed with this petition, to correct the erroneous patent term adjustment (PTA) calculation. Assignee may lose 262 days in the life of its patent through no fault of its own, seriously prejudicing Assignee in fully enforcing its statutory patent rights if this petition is not granted.

The above titled patent was issued on July 1, 2008. At the time of the issuance, the Office interpreted the law in a way that did not support correcting the PTA calculation. In fact, the applicant made an earnest attempt to follow the rules and law as have been set forth by the Office. On September 30, 2008, the U.S. District Court for the District of Columbia issued an opinion in *Wyeth v. Dudas* (*Wyeth et al. v. Jon W. Dudas*, U.S. District Court, D.C., CA No. 07-1492, Mem. Op. September 30, 2008), which made clear that the Office's method for calculating the PTA was in error. As a result of this change in the law, ~~which occurred more than 2 months~~ after the above entitled patent issued, petitioner could not reasonably have timely presented a request for reconsideration of the patent term adjustment.

This case presents the rare instance where the Office's application of the rules has been overturned by the courts. In such exceptional cases, it would be manifestly unjust to punish those who made an earnest attempt to comply with the laws and regulations as interpreted by the PTO.

CERTIFICATE OF MAILING BY EFS-WEB FILING

I hereby certify that this paper was filed with the United States Patent and Trademark Office using the EFS –WEB system on this date: December 22, 2008

Please apply the $400.00 fee required under 37 C.F.R. § 1.17(f) and any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: December 22, 2008

/Spencer C. Patterson/
Spencer C. Patterson
Reg. No. 43,849

Fish & Richardson P.C.
1717 Main Street
Suite 5000
Dallas, TX 75201
Telephone: (214) 292-4082
Facsimile: (877) 769-7945

90321861.doc

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: James D. Pravetz	Art Unit	: 2178
Patent No.	: 7,395,503	Examiner	: Kyle R. Stork
Issue Date	: July 1, 2008	Conf. No.	: 2559
Serial No.	: 10/072,382		
Filed	: February 6, 2002		
Title	: DYNAMIC PREVIEW OF ELECTRONIC SIGNATURE APPEARANCE		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

Applicant hereby petitions for reconsideration of the Patent Term Adjustment (PTA) accorded the above-referenced patent application. The Issue Notification mailed June 11, 2008 for the above-referenced application indicates that the Patent Term Adjustment at issuance is 553 days. Reconsideration of the Patent Term Adjustment calculation to increase PTO Delay from 661 days to 923 days, and to increase Total PTA from 553 to 815 days, is respectfully requested.

REVIEW OF PATENT TERM ADJUSTMENT CALCULATION

A review of the Patent Term Adjustment History in the PAIR system shows that the United States Patent and Trademark Office (PTO) calculated the Patent Term Adjustment (PTA) as follows:

1) The PTO mailed a delayed 14-month first non-final Office Action on January 26, 2005, thereby according a PTO Delay of 661 days. Applicant does not dispute herein this patent term adjustment calculation for this PTO "A Delay."

2) Applicant filed an Information Disclosure Statement on April 28, 2005 (received at the PTO on April 28, 2005). Applicant was accorded a delay of 2 days for a supplemental response. Applicant does not dispute herein this patent term adjustment for Applicant Delay.

3) Applicant filed a response to the third non-final Office Action on January 29, 2007 (received at the PTO on January 29, 2007). Applicant was accorded a delay

CERTIFICATE OF MAILING BY EFS-WEB FILING

I hereby certify that this paper was filed with the United States Patent and Trademark Office using the EFS -WEB system on this date: December 22, 2008

of 2 days for a late response. Applicant does not dispute herein this patent term adjustment for Applicant Delay.

4) Applicant filed a Notice of Appeal in response to the third final Office Action on July 9, 2007 (received at the PTO on July 9, 2007). Applicant was accorded a delay of 32 days for a late response. Applicant does not dispute herein this patent term adjustment for Applicant Delay.

5) Applicant filed an Amendment under 37 CFR 1.312 after the Notice of Allowance on April 21, 2008 (received at the PTO on April 21, 2008). Applicant was accorded a delay of 72 days for a submission after allowance. Applicant does not dispute herein this patent term adjustment for Applicant Delay.

6) The application was filed on February 6, 2002 and the patent issued on July 1, 2008, more than three years later. The earliest Request for Continued Examination was filed on October 26, 2005. No PTO Delay was for issuance of the patent after three years from filing. Applicant respectfully submits that the PTO's calculation of this PTO "B Delay" contains an error and that the correct PTO Delay for issuance beyond three years from filing is 262 days, as outlined further below.

REMARKS

Applicant has calculated the PTA in accordance with the clear intent of Congress. As outlined in Wyeth v. Dudas (Wyeth et al. v. Jon W. Dudas, U.S. District Court, D.C., CA No. 07-1492, Mem. Op. September 30, 2008), the only way that periods of time can "overlap" is if they occur on the same day, and if an "A delay" occurs on one calendar day and a "B delay" occurs on another, they do not overlap, and 35 U.S.C. § 154(b)(2)(A) does not limit the extension to one day. "A Delays" are defined as delays by the Office under 35 U.S.C. 154(b)(1)(A), which guarantees prompt PTO response. "B Delays" are defined as delays by the Office under 35 U.S.C. § 154(b)(1)(B), which guarantees no more than 3-year application pendency.

The PTA for the instant patent, as currently calculated and shown on the face of the patent, relies on the premise that the application was delayed under § 154(b)(1)(B) before the initial three-year period expired.

The Wyeth court determined that this construction cannot be squared with the language of § 154(b)(1)(B), which applies "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," and that "B delay" begins once the PTO has failed to issue a patent within three years, not before.

In the current PTA calculation, the Office has only given credit for the larger of "A Delay" or "B Delay," rather than the combined sum of "A Delay" and "B Delay" (which does not include any days after three years from filing where "A" and "B" delays overlap).

In this patent, "A Delay" should be calculated as 661 days and "B Delay" should be calculated as 262 days. Thus, the total PTO Delay should be calculated as 923 days.

In consideration of the events described above, Applicant believes the PTA calculation of 553 days is incorrect. As such, Applicant respectfully requests reconsideration of the patent term adjustment in the following manner:

1) Total PTO Delay should be calculated as 923 days;

2) Total Applicant Delay should be calculated as 108 days; and

3) Total PTA should be calculated as 815 days.

Applicant notes that this patent is not subject to a terminal disclaimer.

Please apply the fee of $200 required under 37 C.F.R. § 1.18(e) and any other required charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: December 22, 2008

/Spencer C. Patterson/
Spencer C. Patterson
Reg. No. 43,849

Fish & Richardson P.C.
1717 Main Street
Suite 5000
Dallas, TX 75201
Telephone: (214) 292-4082
Facsimile: (877) 769-7945

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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, DC 20231
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MAILED Paper No. 6

DEC 23 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

SAWYER LAW GROUP LLP
P.O. Box 51418
Palo Alto CA 94303

In re Application of :
Huy Nguyen et al :
Application No. 10/072,390 :
Filed: February 5, 2002 :
For: **REMOTE CONTROL DEVICE FOR USE WITH A PERSONAL COMPUTER (PC) AND MULTIPLE A/V DEVICES AND METHOD OF USE** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

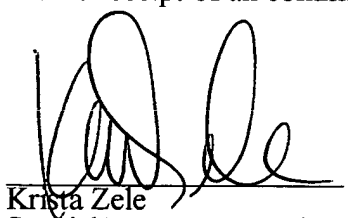
This is a decision on the request to withdraw as attorney/agent of record filed on November 15, 2002.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Joseph A. Sawyer is removed from record. Janyce R. Mitchell, Stephen G. Sullivan, Joyce A. Tom and Michele Liu remain of record.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.



Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: NVIDIA Corporation
2701 San Tomas Expressway
Santa Clara, CA 95050

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 7

NVIDIA Corporation
2701 San Tomas Expressway
Santa Clara, CA 95050

MAILED

DEC 23 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Huy Nguyen et al
Application No. 10/072,390
Filed: February 5, 2002
For: **REMOTE CONTROL DEVICE FOR USE WITH A PERSONAL COMPUTER (PC) AND MULTIPLE A/V DEVICES AND METHOD OF USE**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed April 4, 2002, under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. After mailing, the application will be forwarded to examiner for immediate handling.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

John S. Beulick
Armstrong Teasdale LLP
One Metropolitan Sq., Suite 2600
St. Louis, MO 63102

COPY MAILED
AUG 25 2006
OFFICE OF PETITIONS

In re Application of :
Earley, et al. : DECISION ON PETITION
Application No. 10/072,391 :
Filed: February 5, 2002 :
Dkt. No.: 13DV-14119 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 18, 2006.

This application was held abandoned July 3, 2004 for failure to timely submit a proper reply to the communication mailed June 2, 2004. Notice of Abandonment was mailed November 29, 2005.

Petitioners assert that a response to the Office communication was timely submitted on June 18, 2004 and has submitted as proof of USPTO receipt of the response a return postcard dated stamped June 18, 2004.

The original response submitted June 18, 2004 has not been located. However, in view of the evidence presented, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 2100 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

John S. Beulick
Armstrong Teasdale LLP
One Metropolitan Sq., Suite 2600
St. Louis, MO 63102

MAILED

MAY 15 2009

OFFICE OF PETITIONS

In re Application of Earley et al. :
Application No. 10/072,391 : Decision on Petition
Filing Date: February 5, 2002 :
Attorney Docket No. 13DV-14119 :

This is a decision on the petition filed February 25, 2009, under 37 CFR 1.181 to withdraw the holding of abandonment of 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 NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Facts

On October 14, 2008, the Office mailed a Notice of Allowance requiring payment of the issue fee and publication fee. The Notice set a statutory period for reply of three (3) months.

The Office did not receive a reply to the Notice of Allowance. As a result, the Office deemed the application to have become abandoned as of January 15, 2009.

The Office mailed a Notice of Abandonment on February 10, 2009.

The instant petition was filed February 25, 2009. The petition and alleges non-receipt of the Notice of Allowance.

Discussion

MPEP 711.03(c)(I)(A) states, with emphasis added,

> [A]n allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action....

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the *master docket* for the firm. That is, if a three month period for reply was set in the nonreceived Office action, *a copy of the master docket* report showing all replies docketed for a date three months from the mail date of the nonreceived Office action *must be submitted* as documentary proof of nonreceipt of the Office action. *If no such master docket exists, the practitioner should so state....*

Petitioner has not submitted a copy of the relevant portion of a master docket or stated the law firm does not maintain such a docket. Therefore, the petition cannot be granted. Any request for reconsideration should include a copy of the relevant part of the firm's master docket or state the law firm does not maintain such a docket.

In this case, *if* the firm does not maintain a master docket, the firm may simply make such a statement and is *not* required to provide additional evidence of non-receipt in addition to the evidence filed with the instant petition.

The petition indicates the issue fee, publication fee, and a petition fee of $540 should be charged to petitioner's deposit account. However, a petition fee is not required for a petition under 37 CFR 1.181. Therefore, the Office has only charged the issue fee ($1,510) and the publication fee ($300) to the deposit account.

A copy of the papers mailed to petitioner on October 14, 2008, is enclosed. As stated on the Notice of Allowance, a copy of "Part B - FEE(S) TRANSMITTAL" mailed with a Notice of Allowance, or its equivalent, **must** be filed when submitting an issue fee and/or publication fee. Therefore, any request for reconsideration should be accompanied by a completed copy of the Part B - Fee Transmittal form enclosed or its equivalent.

Unless filed by EFS Web, 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

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

Enclosed: Copy of papers mailed by the Office on October 14, 2008

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 10/14/2008

John S. Beulick
Armstrong Teasdale LLP
One Metropolitan Sq., Suite 2600
St. Louis, MO 63102

EXAMINER	
WOO, ISAAC M	
ART UNIT	PAPER NUMBER
2166	

DATE MAILED: 10/14/2008

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,391	02/05/2002	Elizabeth Anne Earley	13DV-14119	4892

TITLE OF INVENTION: DIGITAL COCKPIT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1510	$300	$0	$1810	01/14/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 10/14/2008

John S. Beulick
Armstrong Teasdale LLP
One Metropolitan Sq., Suite 2600
St. Louis, MO 63102

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,391	02/05/2002	Elizabeth Anne Earley	13DV-14119	4892

TITLE OF INVENTION: DIGITAL COCKPIT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1510	$300	$0	$1810	01/14/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
WOO, ISAAC M	2166	707-104100

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**

☐ A check is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,391	02/05/2002	Elizabeth Anne Earley	13DV-14119	4892

7590 10/14/2008

John S. Beulick
Armstrong Teasdale LLP
One Metropolitan Sq., Suite 2600
St. Louis, MO 63102

EXAMINER	
WOO, ISAAC M	
ART UNIT	PAPER NUMBER
2166	

DATE MAILED: 10/14/2008

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 325 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 325 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

Notice of Allowability	Application No.	Applicant(s)	
	10/072,391	EARLEY ET AL.	
	Examiner	Art Unit	
	ISAAC M. WOO	2166	

-- 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 *response filed on 09/08/2008*.

2. ☒ The allowed claim(s) is/are *1, 3-6 and 8-13 (renumbered as 1-11)*.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Isaac M. Woo/
Primary Examiner, Art Unit 2166

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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John S. Beulick
Armstrong Teasdale LLP
One Metropolitan Sq., Suite 2600
St. Louis, MO 63102

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OFFICE OF PETITIONS

In re Application of Earley et al. :
Application No. 10/072,391 : Decision on Petition
Filing Date: February 5, 2002 :
Attorney Docket No. 13DV-14119 :

This is a decision on the petition filed July 15, 2009, under 37 CFR 1.181 to withdraw the holding of abandonment of 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 NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Background

On October 14, 2008, the Office mailed a Notice of Allowance requiring payment of the issue fee and publication fee. The Notice set a statutory period for reply of three (3) months. The Office did not receive a reply to the Notice of Allowance. As a result, the Office deemed the application to have become abandoned as of January 15, 2009.

The Office mailed a Notice of Abandonment on February 10, 2009.

A petition under 37 CFR 1.181 was filed February 25, 2009. The petition alleged non-receipt of the Notice of Allowance. The petition was accompanied by a docket report for the instant application.

The Office mailed a decision dismissing the petition on May 15, 2009. The decision stated,

> MPEP 711.03(c)(I)(A) states, with emphasis added,
>
> > [A]n allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the

> Office may grant the petition to withdraw the holding of abandonment and remail the Office action.... A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the *master docket* for the firm. That is, if a three month period for reply was set in the nonreceived Office action, *a copy of the master docket* report showing all replies docketed for a date three months from the mail date of the nonreceived Office action *must be submitted* as documentary proof of nonreceipt of the Office action. *If no such master docket exists, the practitioner should so state....*

> Petitioner has not submitted a copy of the relevant portion of a master docket or stated the law firm does not maintain such a docket.... Any request for reconsideration should include a copy of the relevant part of the firm's master docket or state the law firm does not maintain such a docket.

The instant petition was filed July 15, 2009.

Discussion

The instant petition asserts a copy of the master docket was filed with the prior petition. However, the prior petition and the instant petition only include a copy of a docket report for the instant application.

MPEP section 711.03(c)(I)(A) states, with emphasis added,

> A copy of the practitioner's record(s) ... should include the *master* docket for *the firm.* That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing *all* replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted.

A master docket is a docket that covers all patent-related matters handled by the entire law firm. Since the Notice of Allowance was mailed October 14, 2008, the issue fee and publication fee were due on January 14, 2009. Therefore, a copy of a master docket showing *all* of the firm's patent-related matters due January 14, 2009, is required. However, if a *master* docket is not maintained by the law firm, then the firm may simply make such a statement and is *not* required to provide additional evidence of non-receipt in addition to the evidence filed with the instant petition.

Any request for reconsideration should include the relevant portion of the firm's master docket or a statement the firm does not maintain a "master docket." Please note, the copy of the master docket may be redacted to the extent necessary to preserve confidential matters.

Petitioner has not submitted a "Part B - FEE(S) TRANSMITTAL" form. The prior decision stated,

> The petition indicates the issue fee, publication fee, and a petition fee of $540 should be charged to petitioner's deposit account. However, a petition fee is not required for a

petition under 37 CFR 1.181. Therefore, the Office has only charged the issue fee ($1,510) and the publication fee ($300) to the deposit account.

A copy of the papers mailed to petitioner on October 14, 2008, is enclosed. As stated on the Notice of Allowance, a copy of "Part B - FEE(S) TRANSMITTAL" mailed with a Notice of Allowance, or its equivalent, **must** be filed when submitting an issue fee and/or publication fee. Therefore, any request for reconsideration should be accompanied by a completed copy of the Part B - Fee Transmittal form enclosed or its equivalent.

Assuming a request for reconsideration is filed and granted, the Office can forward the matter to Publications Branch for issuance of a patent *if* a completed "Part B - FEE(S) TRANSMITTAL" form is submitted with the request for reconsideration. If the form is not submitted, the Office of Petitions will need to forward the matter to the Technology Center to have a new Notice of Allowance mailed setting a new time period for reply. In other words, a failure to supply a completed "Part B - FEE(S) TRANSMITTAL" form with the request for reconsideration will likely result in a significant delay in the issuance of a patent.

Unless filed by EFS Web, 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

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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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John S. Beulick
Armstrong Teasdale LLP
One Metropolitan Sq., Suite 2600
St. Louis, MO 63102

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OFFICE OF PETITIONS

In re Application of Earley et al. :
Application No. 10/072,391 : Decision on Petition
Filing Date: February 5, 2002 :
Attorney Docket No. 13DV-14119 :

This is a decision on the petition filed January 26, 2010, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application. The petition is filed in the alternative under 37 CFR 1.137(a).

The petition under 37 CFR 1.181 is **granted**.

On October 14, 2008, the Office mailed a Notice of Allowance requiring payment of the issue fee and publication fee. The Notice set a statutory period for reply of three (3) months. The Office did not receive a reply to the Notice of Allowance. As a result, the Office deemed the application to have become abandoned as of January 15, 2009.

The Office mailed a Notice of Abandonment on February 10, 2009.

Petitioner states the Notice of Allowance was never received at the address of record. The Office notes a copy of the Notice of Allowance and a copy of the Notice of Allowability mailed October 14, 2008, were sent to petitioner as an attachment to an Office decision mailed May 15, 2009, in response to a prior petition. The issue fee and publication fee were filed with the instant petition.

Petitioner has provided a showing sufficient to establish non-receipt of the Notice of Allowance.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Page 4 of the petition states, "Applicants respectfully request that the holding of abandonment be withdrawn, or in the alternative, that the subject application be revived." Petitioner submitted a $540 as a petition fee. The Electronic Patent Application Fee Transmittal sheet identifies the petition type corresponding with the fee as "Petition-revive unavoid. abandoned appl." Based on the prior facts, petitioner appears to be requesting alternative relief under 37 CFR 1.137(a).

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee of $540 has been credited back to petitioner's deposit account.

The Office of Data Management, Patent Publication Branch, 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6681454
Issue Date: January 27,2004
Application No. 10072392
Filed: February 5,2002
Attorney Docket No. 271/139US

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed March 13,2008 ,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 13,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6681454	2004-01-27	10072392	2002-02-05	OSI_454

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	/sona dalal/	Date (YYYY-MM-DD)	2008-03-13
Name	Sona Dalal	Registration Number	50777

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Gunnar G. Leinberg, Esq.
NIXON PEABODY LLP
Clinton Square
P.O. Box 31051
Rochester NY 14603

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OFFICE OF PETITIONS

In re Application of	:	
Steen	:	DECISION ON APPLICATION
Application No. 10/072,404	:	FOR PATENT TERM ADJUSTMENT
Filed: February 8, 2002	:	
Atty. Dkt. No.: 19603/3810 (CRF D-2693)	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(b)" filed May 19, 2006.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN**.

The correct patent term adjustment (PTA) at the time of the allowance is 118 days. The Office will adjust the PAIR screen to reflect that the PTA determination at the time of mailing of the Notice of Allowance reflects an adjustment of 118 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed February 17, 2006, indicated that the PTA to date is zero days. The instant application for patent term adjustment was timely filed May 19, 2006. Applicant requests that the PTA be corrected from zero days to reflect an adjustment of 122 days.

A review of the application history reveals, as argued by applicant, that the Office errantly entered December 1, 2003 as the date that a response to the restriction requirement mailed March 18, 2003 was submitted, when, in fact, a response was timely submitted April 23, 2003. Accordingly, the reduction of 166 days has been corrected.

In view thereof, an adjustment of 108 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(2) and 1.703(a)(2). The adjustment began August 24, 2003, the day after the date that is four months after the date that the response to the restriction

requirement was submitted, and ended December 9, 2003, the date non-final Office action was mailed.

A further adjustment of 137 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(2) and 1.703(a)(2) in connection with the mailing of the final rejection on December 28, 2004. The adjustment began August 14, 2004, the day after the date that is four months after the date that the response to the non-final rejection was submitted, and ended December 28, 2004, the date the final rejection was mailed.

Accordingly, as of the time of allowance, an adjustment of 245 days can be attributed to the Office.

The adjustment of 245 days is properly reduced 127 days in accordance with 37 CFR 1.704.

The adjustment of 245 days is properly reduced 35 days in accordance with 37 CFR 1.704(b) in connection with the response to the non-final rejection mailed December 9, 2003. The reduction began March 10, 2004, the day after the date that is three months after the date that the non-final rejection was mailed, and ended April 13, 2004, the date a response was received.

Applicant argues that the response to the non-final rejection bore a certificate of mailing date of April 9, 2004 in accordance with 37 CFR 1.8. Applicant further argues that as a result of the certificate of mailing, the reduction in connection with the response to the non-final rejection should total 31 days rather than 35 days.

Applicant is reminded that the date indicated on any certificate of mailing or transmission under 1.8 shall not be taken into account in the calculation of PTA. *See* 37 CFR 1.704(f).

The adjustment of 245 days is further reduced 92 days in accordance with 37 CFR 1.704(b) in connection with the response to the final rejection mailed December 28, 2004. The reduction began March 29, 2005, the day after the date that is three months after the date that the final rejection was mailed, and ended June 28, 2005, the date the response thereto was submitted.

In view thereof, at the time of allowance, the instant application was entitled to an overall adjustment of 118 days.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to 37 CFR §§ 1.702(a)(4) and 1.702(b).

Receipt is hereby acknowledged of the re required Patent Term Adjustment application fee of $200.00.

The application file is being forwarded to the Office of Patent Publication for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: ADJUSTED PAIR CALCULATION

UNITED STATES PATENT AND TRADEMARK OFFICE

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ATTN: CHIEF IP COUNSEL, LEGAL DEPT.
3380 CENTRAL EXPRESSWAY
SANTA CLARA CA 95051

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OFFICE OF PETITIONS

In re Application of
Calvin F. Quate et al.
Application No. 10/072,414
Filed: February 5, 2002
Attorney Docket No. 3053.1C

DECISION GRANTING PETITION

This is a decision on the petition filed November 26, 2002 under 37 CFR § 1.181, § 1.182 or § 1.183 to allow the submission of electronic copies (on CD-ROM)) of references cited in the IDS. The petition is treated under 37 CFR § 1.182.

For documents that are cited in an Information Disclosure Statement (IDS), 37 C.F.R. § 1.98(a)(2) requires a legible copy be submitted of each citation. Papers that are to be part of the permanent Office records in a patent application are to be on either A4 or 8.5 by 11 inch paper. See 37 C.F.R. § 1.52(a)(iii). While there is an exception for previously submitted copies of the reference in another application, the earlier submitted copy can not be used unless the other application is relied upon under 35 U.S.C. 120 for an earlier effective filing date. See 37 C.F.R. § 1.98(d)(1).

The Office now accepts portions of patent applications on CD-ROM and CD-R media, under 37 C.F.R. § 1.52(e) when the data is submitted as an ASCII file. Other media such as CD-RW are not permitted. No other file formats are permitted. The compact discs become part of the permanent record of the application.

It is also possible for applicant to comply with 37 CFR § 1.98 for U.S. Patents and U.S. Patent application publications by submitting references via "e-IDS"[1] without filing copies of U.S. Patents and U.S. Patent application publications. The Office provides electronic storage and review systems to examiners for U.S. Patents and U.S. Patent application publications. The petition does not state why "e-IDS" cannot be employed to meet the requirements of 37 CFR § 1.98 for any U.S. Patents and U.S. Patent application publications. Hence, if the page volume of all the copies is the problem, it is not clear from the petition why filing a compact disc is necessary rather than filing an e-IDS for U.S. Patents and U.S. patent application publications.

[1] The instructions for submitting an e-IDS can be downloaded at: http://www.uspto.gov/ebc/efs/downloads/documents/EFSePAVE_April23.pdf.

The Office is converting all pending applications to an electronic Image File Wrapper (IFW) system where only the citation of U.S. Patents and U.S. patent application publications are stored. No copy of U.S. Patents and U.S. patent application publications are stored in an IFW application because the Office provides separate storage and review systems for U.S. Patents and U.S. Patent application publications. Copies of foreign patents and non-patent literature references are scanned from paper copies into the IFW application. The scanning of references permits multiple Office employees to review the references in the application and the public to review the foreign patents when the application is published or issued as a patent.

While the Office is working on acceptance of non-ASCII files to be part of the permanent record of a patent application that work is not yet complete. There is no program in place at the present time for acceptance of non-ASCII files. The only clear method of archiving the material submitted on the compact disc or loading it into the IFW is to print them to paper. Thus the Office would not be relieved of the burden of storing paper and would incur the additional burden of processing the compact discs and producing a paper copy from the discs.

With respect to the burden of voluminous paper copies imposed upon applicant and the Office, as explained above, the acceptance of compact discs would not relieve the Office of having to produce a paper copy of the contents of the compact disc and store the compact disc. Accepting the compact discs would create additional adverse impacts on the Office.

Adverse impacts on the PTO if the petition is granted:

A. Training issues:

Examiners have not been trained to review anything on compact disc, except for compact discs in compliance with in 37 CFR § 1.52(e). The compact disc filed does not contain files in compliance with 37 CFR § 1.52(e). Accordingly, the Office cannot be certain that examiners have the necessary training to review the material on compact disc.

B. Virus and computer system compatibility issues:

Examiner's workstations are networked together and to numerous other Office systems. Because of this connectivity, additional procedures are followed for using computer media such as compact discs from outside sources. It is Office policy to test computer media from outside sources for viruses. If the submitted media contains executable programs the Office will further test the submission for compatibility with existing systems. Thus, the IDS discs coming from an external source will need to be checked

for computer viruses even if they do not contain the text search tool. In addition, since the discs contain an executable program, the search software, the discs will have to be analyzed for other problems that may affect the Office computer systems such as incompatibilities with network software and other Office software operating on an examiner's workstation.[2]

C. Electronic management issues:

The compact discs if accepted would become an electronic record of the PTO and subject to various electronic records management requirements. These requirements include developing a record disposition schedule, and providing media and file formats that continue to be usable with future PTO computer systems and software. See 36 CFR. § 1234.30. Ultimately, if transferred to the National Archives, the media and data formats would have to comply with the National Archive requirements or be converted to a form accepted by the National Archives. See 36 CFR. § 1228.188. Acceptable archivable media include Compact Disc-Read Only Memory (CD-ROM), but not other similar media which is rewritable such as Compact Disc-Read Write (CD-RW). For non-archivable formats the Office would be compelled to convert the compact discs to some other archivable form. Ultimately, if the archivable form is paper, the Office has then incurred additional expense with little ultimate gain.

Accordingly, the petition under 37 CFR § 1.182 regarding acceptance of the compact discs is **DISMISSED**.

Applicant can request reconsideration of this decision if the foreign patent and non-patent literature files can be modified to an acceptable archivable form that is compatible with Office computer systems that will not require an undue training and testing burden for the Office. Since the conversion of the data files to an ASCII format would lose all text format and drawing details their value may be significantly diminished and their acceptance by the Office would be less desirable.

The petition is filed alternatively under 37 CFR § 1.181, § 1.182 and § 1.183. 37 CFR § 1.183 provides that "In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed." But even if that were the authority for the intended relief sought, the petition would fail as relief therein is reserved for extraordinary situations that don't traverse a statutory requirement. Furthermore, petitioner has not provided a basis for treatment of the petition under 37 CFR § 1.181. 37 CFR § 1.182 is reserved for

situations not specifically provided for in the regulations thus the petition is more appropriately treated under 37 CFR § 1.182.

In view of the above, a petition fee in the amount of $130.00 will be charged to deposit account no. 01-0431.

The application is being forwarded to Technology Center 1637 for examination in due course.

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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JJGJR.: 09-04

Paper No: __

DUANE MORRIS, LLP
IP DEPARTMENT
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SEP 17 2004

OFFICE OF PETITIONS

In re Application of
Schacter, et al :
Application No. 10/072,419 : ON PETITION
Filed: 7 February, 2002 :
Attorney Docket No. 10739-1/E542-00001 :

This is a decision on the petition filed on 23 August, 2004, under 37 C.F.R. §1.137(b), to revive the instant application as abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record indicates:

- Petitioner failed to respond timely to the Notice of Allowance and Fees due mailed on 4 May, 2004, with reply due under a non-extendable deadline on or before 4 August, 2004;
- the instant application went abandoned after midnight 4 August, 2004;
- it does not appear that Notice of Abandonment was mailed before the instant petition was filed;
- Petitioner has filed a reply in the form of the payment of the Publication and Issue Fees, made the statement of unintentional delay, and filed the petition (and fee) for relief under 37 C.F.R. §1.137(b).

Thus, Petitioner has satisfied the requirements of the regulations at 37 C.F.R. §1.137(b).

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]

---

[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.

CONCLUSION

Petitioner has satisfied the regulatory requirement, and, thus, the petition under 37 C.F.R. §1.137(b) hereby is **granted**.

This application is being forwarded to Publications Branch to be processed into a patent in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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Paper No. 10

ACCENTURE
C/O MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304

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OFFICE OF PETITIONS

In re Application of :
Mei Chuah :
Application No. 10/072,421 : DECISION GRANTING PETITION
Filed: February 5, 2002 : UNDER 37 CFR 1.137(f)
Attorney Docket No. 426882005100 :

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 January 31, 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 in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 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.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 3624 to await a reply to the Office action mailed May 5, 2003. Failure to timely reply will again result in the abandonment of the application.

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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#19

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Brinks Hofer Gilson & Lione
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Chicago, IL 60610

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TECHNOLOGY CENTER 3600

In re application of :
Mei Chuah :
Application No. 10/072,421 : **DECISION ON REQUEST**
Filed: February 5, 2002 : **FOR WITHDRAWAL OF**
For: DISPLAY PARTICULARLY CONFIGURED : **ATTORNEY**
FOR VISUALIZING TRENDS IN DATA

This is a decision on the request filed on June 15, 2004 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED as MOOT**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the power of attorney has already been withdrawn as per the Notice to that effect mailed July 14, 2004. As a result of this Notice, the power of attorney has been granted to the practitioners associated with Customer Number 28164 at the address noted above.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/vdb: 7/19/04

cc:

Accenture C/O Morrison & Foerster
755 Page Mill Road
Palo Alto, CA 94304

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FEB 14 2003

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of	:
Muriel Moser et al	:
Serial No.: 10/072,425	: PETITION TO MAKE SPECIAL
Filed: February 7, 2002	:
Attorney Docket No.: DECLE55.1C2CD1	:

This is in response to applicants' petition filed September 23, 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, 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, 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

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OFFICE OF PETITIONS

In re Application of
Daniel Dulman
Application No. 10/072,440
Filed: February 5, 2002
Attorney Docket No. MI22-1829

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 10, 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 6, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 1756 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).

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OFFICE OF PETITIONS

In re Application of :
Carl R. Strathmeyer et al :
Application No. 10/072,468 : ON PETITION
Filed: February 6, 2002 :
Attorney Docket No. 024/3X5 :

This is a decision on the petition under 37 CFR 1.173(b), filed May 2, 2005 and supplemented on May 10, 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 June 23, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on November 29, 2004, did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed February 7, 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 November 24, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of June 23, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2667 for processing of the RCE and for consideration of the Amendment filed May 2, 2005.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,469	02/06/2002	Steven R. Lange	KLA1P027X1	2656

22434 7590 11/18/2003

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY, CA 94704-0778

EXAMINER	
BEN, LOHA	

ART UNIT	PAPER NUMBER
2873	9

DATE MAILED: 11/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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OFFICE OF PETITIONS

In re Application of	:	
Steven R. Lange	:	
Application No. 10/072,469	:	DECISION GRANTING PETITION
Filed: 6 February, 2002	:	
Attorney Docket No. KLA1P027X1	:	

This is a decision on the petition, filed on 14 August and supplemented on 6 November, 2003, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 5 February, 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 present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of 12 February, 2004, accompanies this decision on petition.

There is no indication that a reply to the non-final Office action of 9 May, 2003, has been filed. Accordingly, a shortened statutory period of three (3) months for reply to the non-final Office action of 9 May, 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 2800 to await a reply to the non-final Office action, the period of which is restarted to run from the mailing date of this decision on petition as noted above.

Any inquiries concerning this decision may be directed to the undersigned at 703.308.6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

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MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of :
Satoshi Seo, et al. :
Application No. 10/072,507 : ON PETITION
Filed: February 5, 2002 :
Attorney Docket No.: 07977-300001 :

This is a decision on the petition, filed August 7, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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 2822 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 :
Gordon H. Epstein :
Application No. 10/072,509 :
Filed: February 5, 2002 :
Attorney Docket No. **20450.53** :

ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 10, 2004, to accept an unintentionally delayed claim under 35 U.S.C §120 for the benefit of priority to the prior –filed non-provisional applications set forth in the amendment filed concurrently with the instant petition

The petition under 37 CFR 1.78(a)(3) is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on, or after, November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

1. the reference required by 35 U.S.C § 120 and 37 CFR § 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

2. the surcharge set forth in § 1.17(t), and

3. a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on February 5, 2002, and was pending at the time of the filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first page of the specification, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed applications was submitted during the pendency of the instant nonprovisional application for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 120 to the prior-filed non-provisional 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 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 applications, accompanies this decision on petition.

This matter is being referred to Technology Center 3700, Art Unit 3763 for appropriate action on the amendment filed August 10, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed non-provisional applications.

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571)272-3222.

Frances Hicks
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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OFFICE OF PETITIONS

In re Application of
Bullock et al.
Application No. 10/072,516
Filed: February 6, 2002
Attorney Docket No. 4-30755B

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 17, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action (Paper No. 15) mailed July 11, 2003, which set a shortened statutory period for reply of three (3) months. An Amendment After Final Rejection was filed on January 12, 2004, and a three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. The Examiner has considered the Amendment After Final Rejection and has determined that the amendment does not place the application in condition for allowance. See the attached Advisory Action Before the Filing of an Appeal Brief (PTOL-303). Accordingly, the application became abandoned on January 12, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of a Request for Continued Examination (RCE), an Amendment, and the requisite fee of $790; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay. Accordingly, the RCE, the Amendment and the filing fee are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Technology Center AU 1617 for further processing.

Frances Hicks
Petitions Examiner
Office of Petitions

Enc: PTOL-303

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OFFICE OF PETITIONS

In re Application of
FRONCZAK, Lawrence J.
Application No. 10/072,517
Filed: February 6, 2002
Attorney Docket No. **01-1508**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 28, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 6, 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 July 7, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Michael P. Straub appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Straub desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application will be directed solely to the above-noted correspondence address of record.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

The application file is being referred to Technology Center Art Unit 2614 for consideration of the amendment filed March 28, 2007.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Cc: **MICHAEL P. STRAUB**
STRAUB & POKOTYLO
620 TINTON AVENUE
BUILDING B, 2ND FLOOR
TINTON FALLS, NJ 07724

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RICHARD M. GOLDMAN
371 ELAN VILLAGE LANE
SUITE 208
SAN JOSE CA 95134

COPY MAILED

SEP 2 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Nomiyama et al.	:	
Application No. 10/072,532	:	ON PETITION
Filed: February 6, 2002	:	
Attorney Docket No. JP9-2000-0421US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 24, 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 the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/20/04

Paper No.: _____

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction on Patent No.: 6,770,697

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.

- [X] Approved — All changes apply.
- [ ] Approved in Part — Specify below which changes do not apply.
- [ ] Denied — State the reasons for denial below.

Comments:

SPE

1713
Art Unit

COFC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Marta DREWNIAK et al.

Confirmation No.: 3423

Patent No.: 6,770,697 B2

Application No.: 10/072,536

Patent Date: August 3, 2004

Filing Date: February 7, 2002

For: HIGH MELT-STRENGTH POLYOLEFIN COMPOSITES AND METHODS FOR MAKING AND USING SAME

Attorney Docket No.: 86006-6400

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. § 1.322

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Certificate
AUG 23 2004
of Correction

Sir:

Patentees hereby respectfully request the issuance of a Certificate of Correction in connection with the above-identified patent. The corrections are listed on the attached Form PTO-1050, submitted in duplicate. The corrections requested are as follows:

Title page at Item (56), **References Cited**:

U.S. PATENT DOCUMENTS, after "6,380,295 B1 04/2002 Ross et al. .... 524/443", insert -- 6,407,155 B1 3/2000 Qian et al. .... 524/445 --.

FOREIGN PATENT DOCUMENTS, after "JP 51075761 A 3/1976", insert -- WO WO 99/47598 3/1999 --.

Support for the above corrections can be found on the Third Party Submission in Published Applications filed December 18, 2002.

OTHER PUBLICATIONS: Galgali reference, change "Galgali, O., et al." to -- Galgali, G., et al. --. See Applicants Third Information Disclosure Statement filed December 8, 2003 in support thereof.

Column 22:

Line 57 (claim 15, last line), before "organically modified clay" delete "or". See Applicants' Amendment filed December 8, 2003 in support thereof.

AUG 24 2004

The requested corrections are for errors that appear to have been made by the Office. Therefore, no fee is believed to be due for this request. Should any fees be required, however, please charge such fees to Winston & Strawn LLP Deposit Account No. 50-1814. Please issue a Certificate of Correction in due course.

Respectfully submitted,

8/18/04
Date

Jeffrey A. Wolfson (Reg. No. 42,234)

WINSTON & STRAWN LLP
Customer No. 28765

202-371-5904

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 6,770,697 B2
DATED: August 3, 2004
INVENTORS: Drewniak et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title Page, Item (56), References Cited:
U.S. PATENT DOCUMENTS, after "6,380,295 B1 04/2002 Ross et al. .... 524/443", insert -- 6,407,155 B1 3/2000 Qian et al. .... 524/445 --.
FOREIGN PATENT DOCUMENTS, after "JP 51075761 A 3/1976", insert -- WO WO 99/47598 3/1999 --.
OTHER PUBLICATIONS: Galgali reference, change "Galgali, O., et al." to -- Galgali, G., et al. --.

Column 22:
Line 57, before "organically modified clay", delete "or".

AUG 2 4 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 6,770,697 B2
DATED: August 3, 2004
INVENTORS: Drewniak et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title Page, Item (56), References Cited:
U.S. PATENT DOCUMENTS, after "6,380,295 B1 04/2002 Ross et al. .... 524/443", insert -- 6,407,155 B1 3/2000 Qian et al. .... 524/445 --.
FOREIGN PATENT DOCUMENTS, after "JP 51075761 A 3/1976", insert -- WO WO 99/47598 3/1999 --.
OTHER PUBLICATIONS: Galgali reference, change "Galgali, O., et al." to -- Galgali, G., et al. --.

Column 22:
Line 57, before "organically modified clay", delete "or".

US006770697B2

(12) **United States Patent**
Drewniak et al.

(10) **Patent No.: US 6,770,697 B2**
(45) **Date of Patent: Aug. 3, 2004**

(54) **HIGH MELT-STRENGTH POLYOLEFIN COMPOSITES AND METHODS FOR MAKING AND USING SAME**

(75) Inventors: **Marta Drewniak**, Carrollton, TX (US); **Xia Zhao**, Garfield, NJ (US); **Satchit Srinivasan**, Carrollton, TX (US)

(73) Assignee: **Solvay Engineered Polymers**, Grand Prairie, TX (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 154 days.

(21) Appl. No.: **10/072,536**

(22) Filed: **Feb. 7, 2002**

(65) **Prior Publication Data**

US 2002/0156171 A1 Oct. 24, 2002

Related U.S. Application Data

(60) Provisional application No. 60/269,386, filed on Feb. 20, 2001.

(51) **Int. Cl.**[7] **C08K 3/34**

(52) **U.S. Cl.** **524/445**; 524/321; 524/425; 524/538; 523/351; 525/70; 264/41; 264/349; 264/540

(58) **Field of Search** 524/445, 321, 524/538, 425; 523/351; 525/70; 264/540, 349, 41

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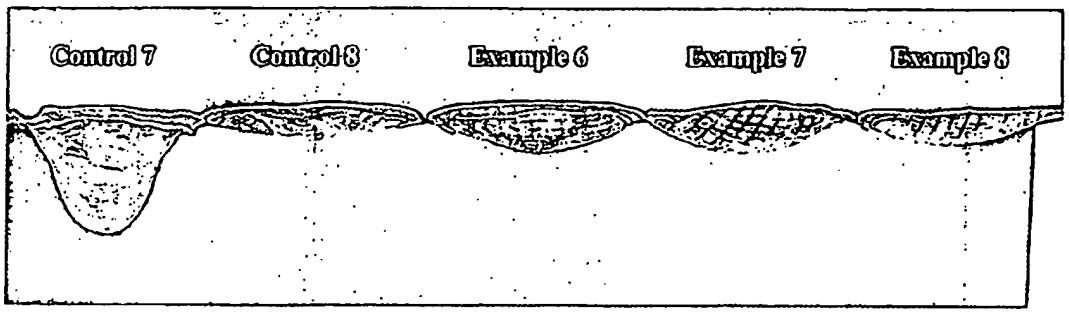
(List continued on next page.)

Primary Examiner—David W. Wu
Assistant Examiner—Henry S Hu
(74) *Attorney, Agent, or Firm*—Winston & Strawn LLP

(57) **ABSTRACT**

The invention includes a process for preparing an improved melt-strength polyolefin blend by incorporating a polyolefin/clay nanocomposite product. The nanocomposite-modified polyolefin blend is used to form articles through processing operations that involve stretching and/or drawing, such as thermoforming, melt spinning, blow molding and foaming. The addition of the nanocomposite product to the polyolefin blend improves the sag resistance of the polyolefin and broadens the processing window of the operation.

22 Claims, 5 Drawing Sheets



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G.

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modified melt strength to the melt strength before modification measured at 220° C. is at least about 1.6 but no more than about 14 and the final polyolefin blend has a shear viscosity that is at least about 5 times that of the shear viscosity of the polymer blend measured under the same conditions but without the organically modified clay.

4. A method of manufacturing an article which comprises a polyolefin/clay nanocomposite blend comprising:

combining from about 50 to 98 percent by weight of a polyolefin comprising a non-functionalized homopolymer or copolymer of propylene, and either (a) copolymer of ethylene and an alpha-olefin with an optional diene; or (b) a styrene copolymer of ethylene or propylene; or a mixture thereof, from about 1 to 20 percent by weight of a functionalized polyolefin, and an organically modified clay in an amount sufficient to provide a modified melt strength, so that a ratio of the modified melt strength of the final polyolefin blend to the melt strength of the polyolefin blend before modification with the organically modified clay measured at 220° C. is at least about 1.5 but no more than about 15; and

forming the article using the polyolefin/clay nanocomposite blend.

5. The method of claim 4, wherein the polyolefin blend in the article comprises from about 70 to 95 percent by weight of polyolefin, from about 1 to 10 percent by weight of functionalized polyolefin, and from about 4 to 20 percent by weight of organically modified clay to provide a ratio of the melt strength of the modified blend to the melt strength of the blend before modification measured at 220° C. of at least about 1.6 but no more than about 14.

6. The method of claim 4, wherein the polyolefin blend in the article comprises from about 85 to 92 percent by weight of polyolefin, from about 2 to 5 percent by weight of functionalized polyolefin, and from about 6 to 10 percent by weight of organically modified clay to provide a ratio of the melt strength of the modified blend to the melt strength of the blend before modification measured at 220° C. of at least about 1.6 but no more than about 14.

7. The method of claim 1 wherein the forming comprises at least one of thermoforming, extrusion, melt spinning, blow molding or foam processing.

8. An article formed from a final polyolefin blend containing a polyolefin/clay nanocomposite masterbatch comprising:

from about 0 to 99 percent by weight of polyolefin from about 1 to 100 percent by weight of a functionalized polyolefin, and from about 10 to 50 percent by weight of an organically modified clay, and any optional additive components,

wherein the final polyolefin blend comprises from about 1 to 30 percent by weight of the nanocomposite masterbatch and about 70 to 99 percent by weight of a polyolefin blend comprising a non-functionalized homopolymer or copolymer of propylene, and either (a) copolymer of ethylene and an alpha-olefin with an optional diene; or (b) a styrene copolymer of ethylene or propylene; or a mixture thereof, and

wherein the organoclay is sufficiently exfoliated into the polyolefin blend to provide the final polyolefin blend with a modified melt strength so that the ratio of the modified melt strength of the final polyolefin blend to the melt strength of the polyolefin blend before modification with the organically modified clay measured at 220° C. is at least about 1.5 but no more than about 15.

9. The article of claim 8, wherein the masterbatch is present in an amount from about 2 to 27 percent by weight and comprises from about 50 to 80 percent by weight of polyolefin, from about 20 to 50 percent by weight of functionalized polyolefin, and from about 20 to 48 percent by weight of organically modified clay, and the polyolefin blend is present in an amount from about 73 to 98 percent by weight, to form the final polymer blend which has a modified melt strength so that the ratio of the modified melt strength to the melt strength before modification measured at 220° C. is at least about 1.5 but no more than about 15.

10. The article of claim 8, wherein the masterbatch is present in an amount from about 3 to 25 percent by weight and comprises from about 60 to 70 percent by weight of polyolefin, from about 30 to 40 percent by weight of functionalized polyolefin, and from about 30 to 45 percent by weight of organically modified clay, and the polyolefin blend is present in an amount from about 75 to 97 percent by weight, to form the final polyolefin blend which has a modified melt strength so that the ratio of the modified melt strength to the melt strength before modification measured at 220° C. is at least about 1.6 but no more than about 14 and the final polyolefin blend has a shear viscosity that is at least about 5 times that of the shear viscosity of the polymer blend measured under the same conditions but without the organically modified clay.

11. The article of claim 8, wherein the functionalized polyolefin comprises a homopolymer or copolymer of propylene, a homopolymer or copolymer of ethylene, or a mixture thereof, wherein a functional monomer with a pendant reactive polar group is grafted onto the polyolefin.

12. The article of claim 8, wherein the nanocomposite-modified polyolefin blend further comprises one or more optional additive components including nucleating agents, fillers, plasticizers, impact modifiers, colorants, mold release agents, lubricants, antistatic agents, pigments, fire retardants, and ultraviolet stabilizers, or mixtures thereof, and the alpha-olefin comprises octene.

13. The article of claim 8, wherein the addition of the nanocomposite masterbatch provides a range of temperatures for forming the article that is at least about 10° C. greater than without the inclusion of a sufficient amount of the clay nanocomposite.

14. An automotive component, a building material, a packaging material, an electrical material, or a nonwoven fabric or fiber comprising the article of claim 8.

15. An article formed from a modified polyolefin blend comprising from about 50 to 98 percent by weight of polyolefin comprising a non-functionalized homopolymer or copolymer of propylene, and either (a) copolymer of ethylene and an alpha-olefin with an optional diene; or (b) a styrene copolymer of ethylene or propylene; or a mixture thereof, from about 1 to 20 percent by weight of functionalized polyolefin, and from about 1 to 30 percent by weight of organically modified clay that is sufficiently dispersed in the polyolefin and functionalized polyolefin to provide a modified melt strength of the final polyolefin blend that is greater than the melt strength of the polyolefin blend before modification with the organically modified clay.

16. The article of claim 15, wherein the polyolefin blend comprises from about 70 to 95 percent by weight of polyolefin, from about 1 to 10 percent by weight of functionalized polyolefin, and from about 4 to 20 percent by weight of organically modified clay.

17. The article of claim 15, wherein the polyolefin blend comprises about 85 to 92 percent by weight of polyolefin, from about 2 to 5 percent by weight of functionalized polyolefin, and from about 6 to 10 percent by weight of organically modified clay.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Kevin B. Morton	: DECISION ON REQUEST FOR
Patent Number	: 7575557	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/072,543	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/08/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1209** 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. 8

FISH & RICHARDSON P.C.
225 FRANKLIN STREET
BOSTON, MA 02110

COPY MAILED

JUN 0 8 2004

OFFICE OF PETITIONS

In re Application of
Andrus et al.
Application No. 10/072,551
Filed: February 7, 2002
Attorney Docket No. 12587-004001

DECISION DISMISSING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed October 2, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED AS MOOT**.

Petitioner states that the instant nonprovisional application became the subject of a counterpart application filed in an eighteen-month country on February 5, 2003. A review of the file record discloses that a Notice to Rescind was received in the USPTO on March 20, 2003.

Where an applicant makes a nonpublication request under 35 U.S.C. 122(b)(2)(B)(i) and then rescinds (pursuant to 35 U.S.C. § 122(b)(2)(B)(iii)) the nonpublication request **within forty-five (45) of a counterpart application being filed in an eighteen-month publication country**, the nonpublication request will be treated as annulled and the application will be treated as if the nonpublication request had never been made. *See* Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2))(B)(ii)-(iv), 1272 OG 1 (July 1, 2003), available at http://www.uspto.gov/web/patents/ patog/week26/.

In the instant application, a Notice to Rescind was filed within forty-five (45) days of the filing date of a counterpart application in an eighteen-month publication country. Therefore, since receipt in the USPTO of the request to rescind within forty-five (45) days of the filing date of a counterpart application in an eighteen-month publication country resulted in the annulling of the nonpublication request, this application is not regarded as abandoned. As such, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue.

Since this application is not in fact abandoned, for the reason stated above, the petition fee of $1300.00 is being credited to Deposit Account No. 06-1050 as previously authorized.

This application is being forwarded to Technology Center 3600 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 7

SQUIRE, SANDERS & DEMPSEY, LLP
600 Hansen Way
Palo Alto, CA 94304-1043

MAIL

NOV - 6 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Li-Wen Chen
Application No.: 10/072,564
Filed: February 6, 2002
For: METHOD AND SYSTEM FOR ROUTING NETWORK TRAFFIC BASED UPON APPLICATION INFORMATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw from Representation filed October 14, 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 agnet.

The singer of the petition, Aaron Wininger 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.

for James R. Matthews
Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 9

FEB 25 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paul Durdik
SQUIRE, SANDERS & DEMPSEY LLP
600 Hansen Way
Palo Alto, CA 94304-1043

In re Application of
Li-Wen CHEN, et al
Application No. 10/072,564
Filed: February 6, 2002
For: METHOD AND SYSTEM FOR ROUTING NETWORK TRAFFIC BASED UPON APPLICATION INFORMATION

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed February 2, 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 communication from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the U.S. Patent and Trademark Office (the Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
(703) 305-9750

cc: MetaEdge Corporation
5201 Great America Parkway
Suite 238
Santa Clara, CA 95054

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN NJ 08830

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OFFICE OF PETITIONS

In re Application of :
Markus Kukuk :
Application No. 10/072,574 : DECISION GRANTING
Filed: February 6, 2002 : PETITION
Attorney Docket No. 2001P07456 US01 :

This is a decision on the petition filed July 25, 2006 under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned May 29, 2006, for failure to timely respond to the Notice Regarding Drawings mailed March 28, 2006 which set a two month period for reply. Accordingly, the Notice of Abandonment was mailed July 10, 2006.

The petition fee in the amount of $1500.00 has been charged to deposit account no. 19-2179.

As the issue fee and publication fee have both already been paid, this matter is being referred to the Publishing Division.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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STRATEGIC PATENT GROUP, P.C.
P.O. BOX 1329
MOUNTAIN VIEW CA 94042

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Cronce :
Application No. 10/072,597 :
Filed: February 5, 2002 :
Title: Method and System For Delivery of :
Secure Software License Information

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed October 30, 2006.

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 January 23, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment was filed on April 24, 2006. A Notice of Abandonment was mailed on August 11, 2006.

Petitioner asserts that he spoke to Examiner Bayat in July of 2006. Petitioner states that the examiner told him although the amendment was visible in "PAIR" , the amendment submitted on April 24, 2006 was not entered into PALM. Consequently, the application had to be abandoned for failure to file a proper reply. Petitioner states that the Examiner informed him since the Patent Office failed to enter the amendment, the applicant could file a petition to withdraw the holding of abandonment after the mailing of the Notice of Abandonment. Petitioner contends because the Notice of abandonment failed to mention the Office's failure to enter the amendment it is believed that the examiner's reason for abandonment is either incomplete, and/or in error and the holding of abandonment should be withdrawn.

A review of the Office record shows that the Office received the amendment after final Office Action on April 24, 2006. The Notice of abandonment shows that the application went abandoned not for the failure to reply to the final Office Action, but for the failure of the amendment to place the application in condition for allowance. Pursuant to 37 CFR 1.2, all business with the Patent and Trademark Office should be transacted in writing. 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.

Further, pursuant to 37 CFR 1.116 (b) the admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination from termination. MPEP 711.03 (c) is clear that an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, when the applicant simply permits the maximum extendable statutory period for reply to expire while awaiting a notice of allowance or other action.

Petitioner 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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

STRATEGIC PATENT GROUP, P.C.
P.O. BOX 1329
MOUNTAIN VIEW CA 94042

In re Application of :
Cronce :
Application No. 10/072,597 : ON PETITION
Filed: February 5, 2002 :
Title: Method and System For Delivery of :
Secure Software License Information

This is a decision on the petition under 37 CFR §1.137(b), filed December 15, 2006.

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 January 23, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment was filed on April 24, 2006. A Notice of Abandonment was mailed on August 11, 2006. A petition filed under 37 CFR 1.181 was dismissed on December 11, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 41.20(b)(2)), will run from the mail date of this petition decision.

The application will be forwarded to Technology Center 3621 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

CONVERGENT LAW GROUP LLP
PO BOX 1329
MOUNTAIN VIEW CA 94042

In re Application of :
Cronce :
Application No. 10/072,597 : ON PETITION
Filed: February 5, 2002 :
Attorney Docket No. 2401P

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 5, 2010.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed December 4, 2009. This Notice set a statutory period for reply of three months. No issue fee having been received on or before March 4, 2010, the application became abandoned on March 5, 2010. The Office mailed a Notice of Abandonment on March 23, 2010.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of the issue fee.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

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MAY 23 2005

OFFICE OF PETITIONS

In re Application of :
Olivera, et al. :
Application No. 10/072,602 : ON PETITION
Filed: February 11, 2002 :
Attorney Docket No. 2314-249 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 5, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action, mailed October 4, 2004, which set a three month period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a), this application became abandoned on January 5, 2005 for failure to reply. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

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. 11/097,315.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

The application file is being forwarded to Files Repository.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

Paper No. 9

Kirk D. Houser
Eckert Seamans Cherin & Mellott, LLC
44th Floor
600 Grant St.
Pittsburgh PA 15219

In re Application of
Charles B. Seidman
Application No. 10/072,617
Filed: February 7, 2002
Attorney Docket No. 284660-00007
Title: DVD AND METHOD OF USING THE SAME

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(f)

This is a decision on the petition filed on June 4, 2003, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an international application on February 7, 2003. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

On June 4, 2003, a Notice of Rescission of Nonpublication Request was filed with the Office, along with the instant petition.

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.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 9, 2003 accompanies this decision on petition.

After this decision is mailed, the application will be forwarded to Technology Center 3700 for further processing.

It is noted that the petitioner is not listed as an attorney of record.

It is further noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to maintenance fees unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay[2]. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

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

cc: Stuart D. Rudoler
Wolf, Block, Schorr and Solis-Cohen LLP
1650 Arch Street – 22nd Floor
Philadelphia, PA 19103-2097

2 See 37 CFR 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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

TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON MA 02110

#11

In re Application of
Thomas A. Steitz et al
Serial No.: 10/072,634
Filed: February 8, 2002
Attorney Docket No.: RIB-005

: PETITION TO MAKE SPECIAL

This is in response to applicants' petition filed February 20, 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, XII. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-27-05

TO SPE OF : ART UNIT 1631.

SUBJECT : Request for Certificate of Correction on Patent No.: 6,952,650

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.

Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments: -

4/4/06

ARDIN H. MARSCHEL
SUPERVISORY PATENT EXAMINER

SPE

1631
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Offi

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Arlington, VA 22313-1450
www.uspto.gov

Paper No. 9

John R. Ross
Trex Enterprise Corporation
10455 Pacific Center Court
San Diego, CA 92121

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JUL 3 0 2003

OFFICE OF PETITIONS

In re Application of :
Chao et al. :
Application No. 10/072,637 : ON PETITION
Filed: February 5, 2002 :
Attorney Docket No. 1092-PA440 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 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 in reply to the Notice to File Missing Parts of Non-provisional Application (Notice) mailed April 10, 2002, which set a shortened statutory period for reply of (2) Two 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 11, 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
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
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JUL 8 2004

Paper No. 8

Lloyd G. Farr
NELSON MULLINS RILEY & SCARBOROUGH, LLP
P.O. Box 11070
Columbia, SC 29211

In re Application of:
Victor Guirgiutiu
Serial No.: 10/072,644
Filed: February 08, 2002
Attorney Docket No.: **16139/09021**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed February 26, 2004, under 37 CFR § 1.181, to withdraw the holding of abandonment in the above-identified application. No petition fee is required.

The request is **GRANTED**.

The application was held abandoned for the failure to timely file a response to the Office action mailed on March 05, 2003. A Notice of Abandonment was mailed on September 09, 2003.

Petitioner asserts that on September 04, 2003, a response including a 12 page amendment, 10 pages formal drawings, a Fee Transmittal for FY 2003 and a check for the requisite fee, was timely filed in the above-identified application. To support this assertion, petitioner has submitted a copy of the response bearing a certificate under 37 CFR § 1.8(a), signed and dated September 04, 2003, and a copy of a return postcard, which acknowledges receipt in the USPTO of the response on September 08, 2003.

A review of the application file reveals the above noted response was not matched with the application file wrapper at the time of mailing of the Notice of Abandonment. The above-identified response filed September 04, 2003, 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.

Howard N. Goldberg, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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JJGJR.: 07-06

Paper No: __

NEUROPACE, INC.
1375 SHOREBIRD WAY
MOUNTAIN VIEW CA 94043

COPY MAILED

JUL 17 2006

OFFICE OF PETITIONS

In re Application of :
Tcheng, et al. :
Application No. 10/072,669 :
Filing Date: 5 February, 2002 :
Attorney Docket No.: N12-01 :

DECISION

This is a decision on the petition filed on 11 May, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

NOTE:

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be 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.

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 17 June, 2005, with reply due under a non-extendable deadline on or before Monday, 19 September, 2005;
- the instant application went abandoned after midnight 19 September, 2005;
- the Office mailed a Notice of Abandonment 7 November, 2005;
- on 11 May, 2006, Petitioner filed the instant petition (with fee), reply in the form of fees due, and made–through support of the assignee's representative Benjamin D. Pless because Counsel Mika Mayer (Reg. No. 47,777) was not of record at the time–the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are required to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt,[7] and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

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(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to Publications Branch to be processed into a patent in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

cc:
MIKA MAYER
MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO, CALIFORNIA 94304-1018

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

Randi L. Dulaney
Motorola, Inc.
Law Department
8000 West Sunrise Boulevard
Fort Lauderdale FL 33322

COPY MAILED

JAN 2 8 2003

OFFICE OF PETITIONS

In re Application of
Eaton, et al.
Application No. 10/072,672
Filed: February 8, 2002
Attorney Docket No.: PT03771U
FOR: SYSTEM FOR PROVIDING CONTINUITY BETWEEN SESSION CLIENTS AND METHOD THEREFOR

: DECISION DISMISSING
: PETITION

This is a decision on the petition under 37 CFR 1.182, filed May 16, 2002 (certificate of mailing date May 3, 2002), requesting that the Office issue a corrected filing receipt showing the total number of claims as 52, rather than 50.

The petition is **dismissed**.

A review of the application file reveals that page 74 of the specification, which probably contains the 2 missing claims, is not present. While the initial reviewer made a note of this in the application file, the Office of Initial Patent Examination erred in not informing petitioners of the omitted page. The filing receipt states there are only 50 claims present, which is an accurate reflection of the contents of the application file.

The application file will be returned to the Office of Initial Patent Examination where a new notice, officially informing petitioners of omitted page 74 and setting a two month period for response, will be mailed. Once petitioners establish page 74 was filed on February 8, 2002, a corrected filing receipt will be mailed.[1]

The undersigned apologizes on behalf of the Office for this mistake.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

[1] In response to the future notice, petitioners are encouraged to submit their date stamped, itemized, return receipt postcard as *prima facie* evidence of the filing of page 74 in the Office on February 8, 2002. MPEP 503.

RLD 3/28/02

OIPE JC95 MAY 0 4 2002

MISSING PARTS DUE: May 7, 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

DOCKETED

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/072,672	02/08/2002	Eric Thomas Eaton	PT03771U

CONFIRMATION NO. 3267

FORMALITIES LETTER

OC000000007601970

Randi L. Dulaney
Motorola, Inc.
Law Department
8000 West Sunrise Boulevard
Fort Lauderdale, FL 33322

Date Mailed: 03/07/2002

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 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 $540.
  - **$540** for **30** total claims over 20.
- 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 $ 1410.**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

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MOTOROLA LAW DEPARTMENT
PLANTATION, FLORIDA

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

GLENN C. BROWN, PC
777 NW WALL STREET, SUITE 308
BEND OR 97701

COPY MAILED

JUN 07 2007

OFFICE OF PETITIONS

In re Application of :
Michael Wendell Vice :
Application No. 10/072,676 : DECISION ON PETITION
Filed: February 7, 2002 : UNDER 37 C.F.R. §1.137(A)
Attorney Docket Number: 2429-3 :
Title: SERIES ACTIVE FILTERING :
POWER LINE CONDITIONER :

This is a decision on the petition filed February 9, 2007, pursuant to 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

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 July 28, 2005, which set a shortened statutory period for reply of three months. No extensions of time are permitted for

1 A grantable petition pursuant to 37 CFR §1.137(a) must be accompanied by:
(1) the required reply (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;
(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 as set forth in §1.20(d)) required pursuant to paragraph (d) of this section.

transmitting issue or publication fees[2]. Accordingly, the above-identified application became abandoned on October 29, 2005. A Notice of Abandonment was mailed on December 15, 2005.

With the present petition, Petitioner has asserted that a response to this communication was submitted on October 17, 2005.

Petition fee requirement

The fee for filing a petition to revive an unintentionally abandoned application under 37 C.F.R. §1.137(a) is set forth in 37 C.F.R. §1.17(l) as being $500 for a large entity and $250 for a small entity. Although Petitioner indicated in his petition that said fee was included with the petition, there is no record of said fee actually having been received, due to an inability to charge this fee to a Deposit Account.

The handwritten Deposit Account information which appears on the form PTOL-85b that was included with this petition is not legible. The undersigned attempted to charge this fee (along with the issue and publication fees) to the Deposit Account number that appears on the Fee Transmittal Sheet which was submitted on March 28, 2003 ("5022-32"), however these fees cannot be charged to this Deposit Account.

Therefore, requirement number (2) of Rule §1.137(a) has not been met. The payment of the required petition fee is a prerequisite to the filing of a petition to revive under 37 C.F.R. §1.137. Therefore, consideration of the merits of the petition before receipt of the filing fee would be premature. See M.P.E.P. 711.03(c)(III)(B)[3]

In view of the above, this petition is **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

---

2 See MPEP §710.02(e).

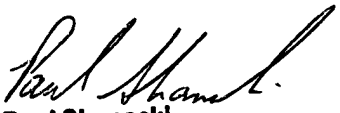
3 "...[T]he payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application and cannot be waived. In addition, the phrase '[o]n filing' in 35 U.S.C. §41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 C.F.R. §1.137. See H.R. Rep. No. 542, 97th Cong., 2nd Sess. 6 (1082), *reprinted in* 1982 U.S.C.C.A.N. 770 ('[t]he fees set forth in this section are due on filing the petition'). Therefore, the Office...will not reach the merits of any petition under 37 C.F.R. §1.137 lacking the requisite petition fee."

"Renewed Petition Under 37 C.F.R. 1.137(a)". 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[4], hand-delivery[5], or facsimile[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

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300- please note this is a central facsimile number.
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 any further action(s) of Petitioner.

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ALEXANDRIA, VA 22313-1450
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Paper No. None

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JUL 06 2007

OFFICE OF PETITIONS

GLENN C. BROWN, PC
777 NW WALL STREET, SUITE 308
BEND OR 97701

In re Application of :
Michael Wendell Vice :
Application No. 10/072,676 : DECISION ON RENEWED PETITION
Filed: February 7, 2002 : UNDER 37 C.F.R. §1.137(A)
Attorney Docket Number: 2429-3 :
Title: SERIES ACTIVE FILTERING :
POWER LINE CONDITIONER :

This is a decision on the renewed petition filed June 18, 2007, pursuant to 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

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 July 28, 2005, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees[2]. Accordingly, the above-

1 A grantable petition pursuant to 37 CFR §1.137(a) must be accompanied by:
(1) the required reply (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;
(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 as set forth in §1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP §710.02(e).

identified application became abandoned on October 29, 2005. A Notice of Abandonment was mailed on December 15, 2005.

An original petition was filed on February 9, 2007, and was dismissed via the mailing of a decision on June 7, 2007, for failure to include the petition fee.

With this renewed petition, Petitioner has asserted that a response to this communication was submitted on October 17, 2005. Petitioner has submitted a copy of this submission, and it is noted that it contains a certificate of mailing dated October 17, 2005.

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 submission was timely submitted.

As such, Petitioner has established that the entire period of delay was unavoidable. Petitioner has further submitted a copy of the required reply that was originally submitted on October 17, 2005. The issue, publication, and petition fees have been charged to Petitioner's Deposit Account. A terminal disclaimer is not required.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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HELLER EHRMAN WHITE & MCAULIFFE LLP
275 MIDDLEFIELD RD
MENLO PARK CA 94025

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JUN 2 4 2004

OFFICE OF PETITIONS

In re Application of
Burton et al.
Application No. 10/072,681
Filed: February 8, 2002
Attorney Docket No. GENENT.037C3

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT
:
:

This decision is in response to the "PETITION TO CORRECT PATENT TERM ADJUSTMENT HISTORY UNDER 37 C.F.R. § 1.705(b)," filed February 3, 2004.[1] Applicant requests that the patent term adjustment (PTA) history in Office records be corrected from two hundred thirty-two (232) days of applicant delay to eighty-nine (89) days.

The petition for correction of the PTA history is **GRANTED**. The determination of PTA at the time of the mailing of the Notice of Allowance is **zero (0) days, including eighty-nine (89) days of applicant delay.**
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 **zero (0) days, including eighty-nine (89) days of applicant delay.** A copy of the updated PAIR screen, showing the correct determination, is enclosed.

[1] This application for patent term adjustment was timely filed, as it was filed after the mailing of the Notice of Allowance and before payment of the issue fee.

On December 3, 2003, 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 zero (0) days, including two hundred thirty-two (232) days of applicant delay.

The Office initially determined a patent term adjustment of zero (0) days, including applicant delays of eighty-nine (89) and one hundred forty-three (143) days, both pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The applicant delay of 89 days has been reviewed and found to be correct. The applicant delay of 143 days is at issue.

The applicant delay of 143 days has been found to be incorrect. The PTO mailed a final Office action on August 19, 2003. In response, applicants filed an amendment and a terminal disclaimer on October 17, 2003, within the three month period provided for in 37 C.F.R. § 1.704(b). Accordingly, no applicant delay should have been assessed.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **zero (0) days, including 89 days of applicant delay.**

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e).

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (703) 305-0272.

Kery Fitzsimmons 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

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EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE MD 20850

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MAR 2 4 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Houle, et al. :
Application No. 10/072,707 :
Filed: February 5, 2002 :
Attorney Docket No. 0370.0723C :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 6, 2009, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is hereby DISMISSED.

The application became abandoned March 17, 2007 for failure to timely submit an appeal brief following the submission of a Notice of Appeal on January 16, 2007. Notice of Abandonment was mailed September 6, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(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 fails to satisfy requirement (3).

As to item (3), there are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

A petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional. Further, the Director may require additional information where there is a question whether the entire delay in question was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). In view of the inordinate delay in resuming prosecution, there is a question whether the entire delay was unintentional.

Any renewed petition must establish that the entire delay, from the time that a reply was due until the filing of a grantable petition, was unintentional. Petitioners may wish to identify the party having the right to reply to avoid abandonment who in turn may explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party can explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, if practitioner was counsel of record at the time of abandonment, practitioner should explain why this application became abandoned. Petitioner may wish to submit supporting documentation to establish that the entire delay has been unintentional as well as statements of fact from those having first hand knowledge of the facts and circumstances surrounding the delay at issue. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

(A) the date that the applicant first became aware of the abandonment of the application; and
(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In view thereof, the petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Inquiries concerning this decision may be directed to the undersigned at 571-272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE MD 20850

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OCT 0 1 2009

OFFICE OF PETITIONS

In re Application of :
Houle, et al. :
Application No. 10/072,707 : ON PETITION
Filed: February 5, 2002 :
Attorney Docket No. 0370.0723C :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 1, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned March 17, 2007 for failure to timely submit an appeal brief in response to the Notice of Appeal filed January 16, 2007. Notice of abandonment was mailed September 6, 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 continuing application under 37 CFR 1.53(b); (2) the required petition fee; and (3) a proper statement of unintentional delay.

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. 12/399,265.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

Mail Date: 06/18/2010

Applicant	: Luke David Jagger	: DECISION ON REQUEST FOR
Patent Number	: 7647376	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/072,708	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/05/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1077** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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THELEN REID & PRIEST L.L.P
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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AUG 28 2006

OFFICE OF PETITIONS

In re Patent of	:	
Schuler et al.	:	
Application No. 10/072,728	:	DECISION
Filed: February 7, 2002	:	ON PETITION
Title of Invention:	:	
INTERFACE DEVICE WITH TACTILE RESPONSIVENESS	:	

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed November 3, 2005. The delay in treating this petition is regretted.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed December 13, 2004. The Office action set a three (3) month period for reply.

Applicant filed an Amendment on June 15, 2005; however, the Amendment failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed June 22, 2004.

Accordingly, the above-identified application became abandoned on July 25, 2005.

With the instant petition, Applicant has filed a Request for Continued Examination ("RCE"), and a submission in the form of the June 15, 2005 Amendment.

This application is being referred to Technology Center 2675 for processing of the RCE and Amendment in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED ST[redacted]EP[redacted]RTMENT OF COMMERCE
Patent and [redacted]ll. Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

C997 U.S. PTO
10/072734
02/05/02

Paper No. 6

MAILED

AUG 1 1 1997

DIRECTOR
GROUP 2200

Stephen A. Gratton
10275 Gumbark Place
San Diego, Ca 92131

In re Application of	:	
Hembree et al	:	
Serial No. 08/797719	:	DECISION ON PETITION UNDER
Filed: February 11, 1997	:	37 CFR 1.48(a)
Attorney Docket No. 96-750	:	

This is a decision on a petition under 37 CFR 1.48(a) filed May 30, 1997 requesting that the name of the inventors in the application be corrected.

Based on the file record as a whole and the facts as set forth above and in the petition, the error in inventorship occurred without deceptive intent and was diligently corrected.

The § 1.48(a) petition to correct the inventorship is **Granted**.

The application is being returned to the Special Processing and Correspondence Branch of the Application Processing Division for further processing with the names of the inventors as shown on the executed declaration under 37 CFR 1.63 filed on May 30, 1997.

Ernest F. Karlsen

Ernest F. Karlsen
August 8, 1997

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

COPY MAILED

OCT 09 2007

OFFICE OF PETITIONS

In re Application of :
Werner et al. :
Application No. 10/072,739 : DECISION ON PETITION
Filed: 02/08/2002 :
Attorney Docket No. 19264.0007U2 :

This is a decision on the petition under 37 CFR 1.181, filed August 28, 2007, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

On December 29, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. Extensions of time were permitted under the provisions of 37 CFR 1.136(a). In the absence of a timely filed reply, the Office mailed a Notice of Abandonment on July 11, 2006.

Petitioners asserted that they submitted a timely reply to the nonfinal Office action, which contained a certificate of mailing dated June 29, 2006. Petitioners submitted a copy of the previously mailed reply in the form of an amendment and an extension of time for response within the third month (and fee), bearing a certificate of mailing dated June 29, 2006. Additionally, petitioners provided a copy of the return date-stamped postcard receipt acknowledging receipt of "Amendment (16 pages), Request for Three Month Extension of Time (2 Pages), Credit Card Payment Form PTO-2038 authorizing payment in the amount of $3,620.00, and a Certificate of Mailing dated June 29, 2006" in the USPTO on July 3, 2006.

Upon further review, the amendment, the request for an extension of time for response within the third month and the credit card authorization, accompanied by a certificate of mailing dated June 29, 2006, have been located in the Image File Wrapper for this application. Accordingly, the response is considered timely filed on June 29, 2006. See 37 CFR 1.8(a).

The petition is **granted**. The Notice of Abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that a response was timely submitted.

The matter is being referred to Technology Center Art Unit 2821 for a review of the reply filed on July 3, 2006 (certificate of mailing dated June 29, 2006).

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination procedures 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
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P.O. Box 1450
Alexandria, VA 22313-1450
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TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

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APR 26 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Ronnie M. Harrison et al :
Application No. 10/072,743 :
Filed: February 7, 2002 :
Attorney Docket No. 3758.2US(97-0153.1) :

This is a decision on the petition, filed April 15, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 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 (571) 272-3208.

The examiner of Technology Center AU 3729 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : April 26, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

COPY MAILED
APR 26 2005
OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Ronnie M. Harrison et al
Application No. :10/072,743
Filed :February 7, 2002

The above-identified application has been assigned Patent No. 6,886,242 and an issue date of May 3, 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 3, 2005:

> "All reference to Patent No. 6,886,242 to Ronnie M. Harrison et al of Idaho for METHOD OF FABRICATING AN INTEGRATED CIRCUIT PACKAGE appearing in the Official Gazette of May 3, 2005 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03, (FAX-273-5468
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038)
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/18/06

TO SPE OF : ART UNIT **3635**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/072785 6976345

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

Carl D. Friedman
Supervisory Patent Examiner
Group 3600

3635

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 3

CARR & FERRELL LLP
2225 EAST BAYSHORE ROAD
SUITE 200
PALO ALTO CA 94303

MAILED

APR 2 1 2003

Technology Center 2600

In re Application of :
Norrell et al. :
Application No. 10/072,833 : DECISION ON REQUEST TO
Filed: February 6, 2002 : WITHDRAW AS ATTORNEY
For: LOOP EXTENDER WITH SELECTABLE :
LINE TERMINATION AND EQUALIZATION :

This is a decision on the request to withdraw as attorney/agent of record filed on March 17, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All attorneys associated with Customer No. 22830 are granted the request for withdraw of attorney/agent. All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Jim H. Salter
Blakely, Sokoloff, Taylor, and Zafman LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085

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.
10/072,840	02/06/2002	Steven Charles Glassman	9772-0313-999	3725

22879 7590 07/31/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER	
HERRING, VIRGIL A	
ART UNIT	**PAPER NUMBER**
2132	

NOTIFICATION DATE	DELIVERY MODE
07/31/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM
mkraft@hp.com
ipa.mail@hp.com

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF DATA MANAGEMENT

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

In re Application of :
GLASSMAN, STEVEN CHARLES et al. :
Application No. 10/072,840 :
Filed: February 6, 2002 :
Attorney Docket No. 9772-0313-999 :

JUL 30 2008

DECISION ON PETITION

This is a decision on the Petition For Withdrawal Of Abandonment, received in the United States Patent and Trademark Office (USPTO) on May 13, 2008.

The petition is **GRANTED.**

The application was timely in paying the issue fee as required in the Notice of Allowance and Fee(s) Due, mailed February 12, 2008 which set a three (3) month statutory period for reply.

Petitioner has demonstrated that the Part B – Fee(s) Transmittal, Transmittal Of Payment Of Issue Fee, was timely, and is in compliance with 37 CFR 1.181(a) in that (1) the United States Patent and Trademark Office was promptly informed of the previous timely mailing, (2) a copy of the communication result report with certificate of faxing thereon has been submitted, and (3) included a faxed via auto-reply facsimile transmission.

Accordingly, the issue fee will be accepted as timely faxed via transmission on April 1, 2008.

As authorized, the issue fee in the amount of $1,440 and $300 for publication fee were charged to Deposit Account No. 08-2025. Since, no fee is required for this petition.

The application will be forwarded to the Office of Data Management to be processed in to a patent.

Telephone inquires concerning this decision be directed to the undersigned in the Office of Patent Publication at 703-305-9250 x 175.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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

PARSONS BEHLE & LATIMER
201 SOUTH MAIN ST
SUITE 1800
PO BOX 45898
SALT LAKE CITY UT 84145-0898

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JAN 0 6 2003

OFFICE OF PETITIONS

In re Application of
Densen Cao
Application No. 10/072,858
Filed: February 5, 2002
Attorney Docket No. 5061.13 P

ON PETITION

This is a decision on the "Resubmitted Petition to Correct Filing Receipt", filed November 5, 2002, which is being treated as a petition under 37 CFR 1.10 to accord the above-identified application a filing date of February 5, 2002. The application had erroneously been accorded a filing date of January 5, 2002.

Application papers in the above-identified application were filed via Express Mail (Express Mail Number EL900133528US) on February 5, 2002. A review of the Office Express Mail records confirms that the above-identified application was deposited with the USPS on February 5, 2002.

In view thereof, the petition is **GRANTED**.

Given the basis for granting the petition, no petition fee was charged.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **February 5, 2002**.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 703-305-0272.

for B Wood

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enc: USPTO's USPS Express Mail Database record (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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
10/072,859	02/05/2002	3732	1170	5061.7AP	45	20	2

CONFIRMATION NO. 9474

Parsons, Behle & Latimer
201 South Main Street, Suite 1800
P.O. Box 45898
Salt Lake City, UT 84145-0898

CORRECTED FILING RECEIPT

OC000000013092911

Date Mailed: 06/30/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Densen Cao, Sandy, UT;

Domestic Priority data as claimed by applicant

This application is a CIP of 10/016,992 12/13/2001
which is a CIP of 09/405,373 09/24/1999 PAT 6,331,111
and claims benefit of 60/304,324 07/10/2001
This application 10/072,859
is a CIP of 10/017,272 12/13/2001
which is a CIP of 09/405,373 09/24/1999 PAT 6,331,111
and claims benefit of 60/304,324 07/10/2001
This application 10/072,859
is a CIP of 10/017,454 12/13/2001
which is a CIP of 09/405,373 09/24/1999 PAT 6,331,111
and claims benefit of 60/304,324 07/10/2001
This application 10/072,859
is a CIP of 10/017,455 12/13/2001
which is a CIP of 09/405,373 09/24/1999 PAT 6,331,111
and claims benefit of 60/304,324 07/10/2001

Foreign Applications

If Required, Foreign Filing License Granted: 04/19/2002

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

CURING LIGHT

Preliminary Class

433

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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HENRY W. CUMMINGS
3313 W. ADAMS ST.
ST. CHARLES MO 63301

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MAR 1 4 2006

OFFICE OF PETITIONS

In re Application of :
Thomas A. Ancel : DECISION ON PETITION
Application No. 10/072,860 :
Filed: 9 February, 2002 :
Atty Docket No. TAA-11A :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 19 October, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 4 June, 2005, for failure to properly respond to the Notice of Fee Deficiency Letter mailed on 3 May, 2005, which required payment of the fee for a one (1) month extension of time, which set a one (1) month shortened period for reply. On 21 June, 2005, petitioner filed a one (1) moth extension of time. However, the one month period had already elapsed, and a two (2) month extension of time and fee was required. Notice of Abandonment was mailed on 3 October, 2005.

The application is being forwarded to Technology Center Art Unit 2875 for further processing.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Birch Stewart Kolasch & Birch
PO Box 747
Falls Church, VA 22040-0747

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of :
Chun-Hung Lee :
Application No. 10/072,887 : DECISION ON PETITION
Filed: February 12, 2002 : TO WITHDRAW
Attorney Docket No. 32052.8168.US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 17, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Birch Stewart Kolasch & Birch has been revoked by the assignee of the patent application on August 22, 2008. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Denise Williams at 571-272-8930.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

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MAR 14 2006

OFFICE OF PETITIONS

In re Application of :
Sheng Hsin Liao :
Application No. 10/072,921 : ON PETITION
Filed: February 12, 2002 :
Attorney Docket No. MR2349-792 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 31, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $750.00; and (3) an adequate statement of unintentional delay.

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.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3213.

The application file is being forwarded to Technology Center 2800, Art Unit 2838.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: Steven M. Rabin
1101-14th Street, N.W. – Suite 500
Washington, DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 11

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

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OCT 3 1 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Shunpel Yamazaki et al :
Application No. 10/072,931 :
Filed: February 12, 2002 :
Attorney Docket No. 740756-2433 :

This is a decision on the petition, filed October 30, 2002, 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, 2002 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 2812 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 must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to *timely* requ st *in writing* that th previously paid issue fe be applied towards the new Notice and payment of any balance du will result in the abandonment of the application.**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 12

Date : October 31, 2002

TO : Director, Office of Publication and Dissemination

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Shunpei Yamazaki et al
Application No. : 10/072,931
Filed : February 12, 2002

The above-identified application has been assigned Patent No. 6,479,335 and an issue date of November 12, 2002.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of November 12, 2002:

> "All reference to Patent No. 6,479,335 to Shunpei Yamazaki et al of Japan for METHOD OF MANUFACTURING A SEMICONDUCTOR DEVICE appearing in the Official Gazette of November 12, 2002 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis, P/OCS, CM1-6A07

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ROBERT L. PRICE
MCDERMOTT, WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

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NOV 17 2005

OFFICE OF PETITIONS

In re Application of
Ian L. Brown et al.
Application No. 10/072,942
Filed: February 12, 2002
Attorney Docket No.: 50179-101

ON PETITION

This is a decision on the petition filed September 15, 2004, under 37 CFR 1.181, to withdraw the holding of abandonment for the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

The application was held abandoned on July 7, 2002, for failure to file a timely reply to the Notice to File Corrected Application Papers, mailed May 6, 2002. A two month period for reply was set. Accordingly, a Notice of Abandonment was mailed on January 16, 2004.

Petitioner asserts that a response was mailed June 28, 2002 and that with it a substitute specification was filed. In support, petitioner has submitted, *inter alia*, a post card receipt, date stamped June 28, 2002 by the USPTO, and cover page used for submitting the response (corrected application papers).

A search of the application file and the USPTO records reveals that a Notice to File Corrected Application Papers was mailed May 6, 2002 and that a document purporting to be the response was filed June 28, 2002. However, our review of the file does not disclose that the actual substitute specification is of record.

It appears, from the proof submitted that petitioner attempted to file the response in a timely manner but until such time as a proper response in the format required in the Notice to File Corrected Application Papers has been filed, the petition cannot be granted and the abandonment withdrawn. As well this matter cannot proceed through the pre-examination phase until such time as the response is filed.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCDERMOTT, WILL & EMERY
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WASHINGTON DC 20005-3096

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DEC 20 2005

OFFICE OF PETITIONS

In re Application of
Ian L. Brown et al.
Application No. 10/072,942
Filed: February 12, 2002
Attorney Docket No.: 50179-101

ON PETITION

This is a decision on the request for reconsideration, filed December 13, 2005 under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned on July 7, 2002, for failure to file a timely reply to the Notice to File Corrected Application Papers, mailed May 6, 2002. A two month period for reply was set. Accordingly, a Notice of Abandonment was mailed on January 16, 2004.

A petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed September 15, 2005 was dismissed in a decision mailed November 17, 2005. Petitioner asserted, and maintains that a response was mailed June 28, 2002 and that a substitute specification was timely submitted as the response to the Notice to File Corrected Application Papers mailed May 6, 2002. In support, petitioner submitted, *inter alia*, a copy of a post card receipt, date stamped June 28, 2002 by the USPTO and cover page used for submitting the response (corrected application papers).

In the previous decision dismissing the petition it was noted that while a document purporting to be the response was filed June 28, 2002, the review of the file did not disclose that the actual substitute specification was of record.

Comes now petitioner with a copy of the substitute specification purported to have been filed on June 28, 2002 and for which the post card receipt substantiates the claim that it was in fact timely filed on that date. In view thereof, **the petition to withdraw the holding of abandonment is GRANTED and the Notice of Abandonment is VACATED**.

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MATTINGLY, STANGER, MALUR
& BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

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JUL 11 2007

OFFICE OF PETITIONS

In re Application of :
Yasunori Kaneda et al :
Application No. 10/073,007 : DECISION GRANTING PETITION
Filed: February 12, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 500.41184X00 :

This is a decision on the petition, filed July 11, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 18, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3714 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\july10\073007.wpd

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Penrose Lucas Albright, Esq.
MASON, MASON & ALBRIGHT
P.O. Box 2246
Arlington VA 22202-0246

Paper No. 15

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FEB **1 5** 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Alexander VAN DER LELY *et al.* :
Application No. 10/073,015 :
Filed: February 12, 2002 :
Attorney Docket No. **8553/250** :

This is a decision on the petition under 37 CFR 1.137(b), filed December 1, 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 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 October 9, 2003, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned, by operation of law, on December 10, 2003. 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 an amendment, a Request for Continued Examination (RCE) under 37 CFR 1.114, and the $395 filing fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Accordingly, the RCE is accepted as having been unintentionally delayed.

Furthermore, 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 petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

Telephone inquiries concerning this decision should be directed to Anatoly Vortman at (571) 272-6051, or in his absence to the undersigned at (571) 272-7099.

Application No. 10/073,015

The application file is being referred to Technology Center AU 3644 for appropriate action on the RCE and concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PENROSE LUCAS ALBRIGHT, ESQ.
MASON, MASON & ALBRIGHT
P.O. BOX 2246
ARLINGTON VA 22202-0246

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MAR 26 2008

In re Application of
Alexander Van Der Lely et al.
Application No. 10/073,015
Filed: February 12, 2002
Attorney Docket No. 8553/250

ON PETITION

This is a decision on the petition filed February 11, 2008 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned January 17, 2008 for failure to timely pay the issue fee on or before September 19, 2007. Accordingly, a Notice of Abandonment was mailed January 16, 2008.

The issue fee in the amount of $1440.00, petition fee in the amount of $1540.00 and publication fee in the amount of $300 have been charged to deposit account no. 08-3038. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOWREY LLP - DC
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH, VA 22042-2924

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NOV 1 3 2008

OFFICE OF PETITIONS

In re Patent No. 7,370,606 :
Issue Date: May 13, 2008 :
Application No. 10/073,015 : NOTICE
Filed: February 12, 2002 :
Attorney Docket No. 04132.0120.DVUS01 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

The patent file will be forwarded to the Files Repository.

Alicia Kelley
Petitions Examiner
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Penrose Lucas Albright, Esq.
MASON, MASON & ALBRIGHT
P.O. Box 2246
Arlington, VA 22202-0246

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DEC 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Alexander Van Der Lely, et al. :
Application No. 10/073,023 : ON PETITION
Filed: February 12, 2002 :
Attorney Docket No. 8553/251 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed October 27, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

The application file is being forwarded to Technology Center AU 3644, for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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2941 FAIRVIEW PARK DR., SUITE 200
FALLS CHURCH VA 22042

MAILED

OCT 28 2009

OFFICE OF PETITIONS

In re Patent No. 6,938,576
Issue Date: September 6, 2005
Application No. 10/073,023
Filed: February 12, 2002
Attorney Docket No. 04132.0125.000000

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed July 7, 2009.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

There is no indication that the person signing the present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If appropriate the proper power attorney documents should also be submitted.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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1030 15TH STREET N.W., 6TH FLOOR
WASHINGTON, D.C. 20005

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SEP 2 2 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Charles Simon Gilligan :
Application No. 10/073,050 :
Filed: February 12, 2002 :
Attorney Docket No. 82377 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed April 19, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 20, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application is being forwarded to the Publishing Division.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-1-08

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: 7283440 (10/073061

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.

Should Claim 53 be entered?

Thank You For Your Assistance

Eva James
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:

Do not enter new claim 53

/Wayne Young/ 2627

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081001

DATE : October 01, 2008

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: 7283440

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

Proposed new claim 53 is renumbered allowed claim 66.

/WAYNE R YOUNG/
Supervisory Patent Examiner.Art Unit 2627

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081209

DATE : December 9, 2008

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: 7283440
Should claim 53 be entered? See C of C filed 6/5/08.

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:

Proposed new claim 53 is renumbered allowed claim 66.
Hence, this claim was allowed by the examiner and should be claim 53 in the Patent.

SPE: /Wayne Young/ SPE **Art Unit** 2627

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,065	02/12/2002	Shyam S. Mohapatra	USF-T156X	2390

23557 7590 10/05/2006

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE, FL 32614-2950

EXAMINER	
HILL, MYRON G	

ART UNIT	PAPER NUMBER
1648	

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER
	20061002

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

In view of the papers filed 17 August 2006, 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 adding three persons to the inventive entity as follows:

Aruna K. Behera, Watertown, MA,
Li-Chen Chen, Taipei, Taiwan, and
Cristina Perez de la Cruz, Bowie, MD.

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.

Any inquiry concerning this communication should be directed to Myron G. Hill at telephone number 571-272-0901.

10/2/06

BRUCE R. CAMPELL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ___

DATE : February 10, 2009

TO SPE OF : ART UNIT 2619
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/073098 Patent No.: 7430212

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 scannin 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: _____

/Pankaj Kumar/ 2467

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/15/06

Paper No.: —

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/623108 Patent No. 7039257B2

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: _____

Matthew C. Bella

MATTHEW C. BELLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
SPE

2624
Art Unit

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Paper No. 6

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington, DC 20005-3315

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AUG 12 2002

OFFICE OF PETITIONS

In re Application of	:	
Caronni, et al.	:	
Application No. 10/073,131	:	DECISION DISMISSING
Filed: February 13, 2002	:	PETITION UNDER 37 CFR
Attorney Docket No.: 06502.0356	:	1.47(a)
For: SYSTEM AND METHOD FOR	:	
ACCESSING FILE SYSTEM ENTITIES	:	

This is in response to the petition under 37 CFR 1.47(a), filed June 11, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing 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 February 13, 2002 without an executed oath or declaration and naming Germano Caronni and Sandeep Kumar as joint inventors. Accordingly, on March 11, 2002, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor, or in the present case, the non-signing legal representative of the deceased inventor, cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Applicant lacks requirements (1) and (2) set forth above.

As to item (1), the petition lacks sufficient evidence that the non-signing inventor cannot be reached, was ever presented with a copy of the application papers (specification, claims, drawings, and oath or declaration), or, having been presented with the application papers, refused to sign the oath or declaration.

Petitioner alleges that the non-signing inventor despite diligent

effort cannot be reached or located. The declaration of Walter Davis states the application papers were e-mailed and mailed to the inventor and that to date the inventor has not responded. Declaration further states he was informed the inventor was "on a leave of absence in India."

The fact that the inventor is "on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47." See, MPEP 409.03(d). Moreover, where inability to find or locate a named inventor(s) 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. 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. At the very least, a search of the internet, telephone directories, and international registries should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

Any renewed petition must be supported by evidence to establish the inventor cannot be reached or located or the inventor refuses to sign an oath or declaration after having been presented with the application papers.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration presented with the instant petition contains alterations that have not been initialed as required by 37 CFR 1.52(c).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 9

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington, DC 20005-3315

COPY MAILED

OCT 3 1 2002

OFFICE OF PETITIONS

In re Application of	:
Caronni, et al.	:
Application No. 10/073,131	: DECISION NOTING JOINDER
Filed: February 13, 2002	: OF INVENTOR AND PETITION
Attorney Docket No.: 06502.0356	: UNDER 37 CFR 1.47(a) MOOT
For: SYSTEM AND METHOD FOR	:
ACCESSING FILE SYSTEM ENTITIES	:

This is in response to the renewed petition under 37 CFR 1.47(a), filed October 15, 2002.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Mail Date: 04/21/2010

Applicant	: Yasushi Yamade	: DECISION ON REQUEST FOR
Patent Number	: 7647377	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/073,150	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/13/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2025** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

ROSS J. OEHLER
SANOFI-AVENTIS U.S. LLC
1041 ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER, NJ 08807

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OCT 13 2006
OFFICE OF PETITIONS

In re Application of :
Hartmut Strobel, et al. :
Application No. 10/073,160 : ON PETITION
Filed: February 13, 2002 :
Attorney Docket No.: 04734.0003 :

This is a decision on the petition, filed October 12, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

It does not appear that the petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Robert J. Kajubi appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. Further, it is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The petition is **GRANTED**.

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 7, 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.

[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).

The application is being referred to Technology Center AU 1626 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: AVENTIS PHARMACEUTICALS INC.
PATENT DEPARTMENT
ROUTE #202-206 / P.O. BOX 6800
BRIDGEWATER, NJ 08807-0800

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : October 12, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Hartmut Strobel, et al.
Application No. : 10/073,160
Filed : February 13, 2002

The above-identified application has been assigned Patent No. 7,122,575 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. 7,122,575 to HARTMUT STROBEL, ET AL. of GERMANY for ACYLATED INDANYL AMINES AND THEIR USE AS PHARMACEUTICALS appearing in the Official Gazette of October 17, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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

JAN 29 2003

UR
PAPER NO. 6

In re Application of	:	
William M. Traut et al.	:	DECISION
Serial No. 10/073,184	:	ON
Filed: February 13, 2002	:	PETITION
For: VENT FOR AND METHOD OF CONCEALING AND VENTING A SEPTIC SYSTEM	:	UNDER 708.02,V

This is in response to the petition filed March 14, 2002, requesting that the above-identified application be granted Special Status under Sections 708.02 (V) of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is **GRANTED.**

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

William A. Bonk, III
5440 31st Street, N.W.
Washington, DC 20015

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

MAY 12 2004

In re Application of	:	
William M. Traut et al	:	NOTICE OF WITHDRAWAL
Serial No. 10/073184	:	FROM ISSUE
Filed: February 13, 2002	:	UNDER 37 CFR 1.313
For: VENT FOR AND METHOD CONCEAL-	:	
AND VENTING A SEPTIC SYSTEM	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313. (b).

The above-identified application is hereby withdrawn from issue to permit reopening. An office action from the examiner will follow in due course.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Blaine Copenheaver at (571) 272-1156.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Dykema Gossett, PLLC
Suite 300 West
1300 I Street, N.W.
Washington DC 20005-3306

CC: Allowed Files

OIPE JC174 APR 28 2004 PATENT & TRADEMARK OFFICE

Image B Pet. Dec.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	PATENT
William M. Traut et al.	)	
Serial No. 10/073,184	)	
Filed: Feb. 13, 2002	)	
Air/Water Filtering Device .	)	

Approved
Jacqueline M. Stone, Director
Technology Center 17[illegible]

JUL - 6 2004

REQUEST FOR PERMISSION TO WITHDRAW AS ATTORNEY OF RECORD

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

April 28, 2004

Sirs:

It is respectfully requested that the attorneys of record in the above-identified application be permitted to withdraw as attorneys.

Applicants long overdue account with the undersigned firm has led to a severance of business and legal relationship between applicants and the firm.

Early action on this request is earnestly solicited.

Respectfully submitted,

DYKEMA GOSSETT PLLC

By: _____

Lawrence R. Radanovic, Reg. No. 23,077
Franklin Square, Third Floor West
1300 I Street N.W.
Washington, DC 20005-3353
(202) 906-8624

DC01\79261.1
ID\LRR

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

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

MAIL

JUL 1 5 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Kenneth Y. NG)
Application No. 10/073,190)
Filed: February 13, 2002) **DECISION ON REQUEST FOR**
For: BOOTH ENCODER AND PARTIAL) **WITHDRAWAL AS ATTORNEY**
PRODUCTS CIRCUIT)

This is a decision on the Request To Withdraw from Representation filed June 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: SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH P.A.
c/o Anne Richards
1600 TCF Tower
121 S. 8th Street
Minneapolis, MN 55402

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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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

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FEB 0 2 2007

OFFICE OF PETITIONS

In re Application of :
HAMBERG, Max :
Application No. 10/073,200 : DECISION GRANTING PETITION
Filed: February 13, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 4208-4079 (NOKIA 16550) :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 30, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 18, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 8

DAVID W. HIGHET, ESQ.
BECTON DICKINSON AND COMPANY
1 BECTON DRIVE
FRANKLIN LAKES, NJ 07417

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MAR 25 2004

OFFICE OF PETITIONS

In re Application of :
Hansen, et al. :
Application No. 10/073,207 : ON PETITION
Filed: February 13, 2002 :
Attorney Docket No. 42558 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 17, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed March 7, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 8, 2002. A Notice of Abandonment was mailed on February 4, 2004.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SQUIRE, SANDERS & DEMPSEY L.L.P.
8000 TOWERS CRESCENT DRIVE
14TH FLOOR
VIENNA, VA 22182-6212

Mail Date: 04/20/2010

Applicant	: Tarja Pirttimaa	: DECISION ON REQUEST FOR
Patent Number	: 7574735	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/073,216	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/13/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2086** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOSEPH TABE
SUITE 315
525 THAYER AVENUE
SILVER SPRING MD 20910

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NOV 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Tabe, Joseph A.	:	
Application No. 10/073,236	:	ON PETITION
Filed: February 13, 2002	:	
Attorney Docket No. ADVANCED AUDIO SAFETY APPARATUS	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 3, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 21, 2006

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/073246 Patent No.: 6,968,531 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

JACK CHIANG
SUPERVISORY PATENT EXAMINER

_____ 2825

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 14

WENDEROTH LIND & PONACK LLP
2033 K STREET NW, SUITE 800
WASHINGTON DC 20006-1021

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JAN 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Masahiro Sugihara et al :
Application No. 10/073,253 : DECISION GRANTING PETITION
Filed: February 13, 2002 : UNDER 37 CFR 313(c)(2)
Attorney Docket No. 2001-1733A :

This is a decision on the petition, filed December 31, 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 December 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]

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 1734 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON VA 22201-4714

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FEB 04 2005

OFFICE OF PETITIONS

In re Application of :
Tetsuya Miwa et al :
Application No. 10/073,255 : ON PETITION
Filed: February 13, 2002 :
Attorney Docket No. 2635-92 :

This is a decision on the petition, filed February 3, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 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) 272-3208.

The examiner of Technology Center AU 3747 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : February 4, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/073,255

Applicant(s) :Tetsuya Miwa et al
Application No. :10/073,255
Filed :February 13, 2002

The above-identified application has been assigned Patent No. 6,857,407 and an issue date of February 22, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicants.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of February 22, 2005:

> "All reference to Patent No. 6,857,407 to Tetsuya Miwa et al of Japan, for SPARK PLUG AND IGNITION APPARATUS USING SAME appearing in the Official Gazette of February 22, 2005 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara Greene, Crystal Park 3-908

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 25 2006

OFFICE OF PETITIONS

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of :
Tetsuya Miwa et al :
Application No. 10/073,255 : ON PETITION
Filed: February 13, 2002 :
Attorney Docket No. 2635-92 :

This is a decision on the petition, filed August 24, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 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 3747 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Pearl, Cohen, Zedek, Latzer, LLP
1500 Broadway
12th Floor
New York, NY 10036

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JUL 18 2008

OFFICE OF PETITIONS

In re Application of	:	
Richard J. Wurtman et al.	:	
Application No. 10/073,272	:	DECISION ON PETITION
Filed: February 13, 2002	:	
Attorney Docket No. P-6595-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 22, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 15, 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 August 16, 2003. A Notice of Abandonment was mailed on January 29, 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).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [Emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 5 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on August 16, 2003. That party, in turn must explain what effort(s) was made to further reply to the Notice and, further, why no response was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as the appointed attorneys in the Oath were counsel of record at the time of abandonment, an explanation is required as to why this application became abandoned while it was under their control and what efforts were made by the appointed attorneys to further reply of itself and with whom this matter was discussed outside the law office of Katten, Muchin, Zavis & Rosenman. Copies of any correspondence relating to the filing, or to not filing, a further reply to the outstanding Office action are required from responsible person(s), appointed attorneys and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at law office of Katten, Muchin, Zavis & Rosenman, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The

December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, almost 5years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at the law office of Katten, Muchin, Zavis & Rosenman and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

February 2004

Nixon Peabody, LLP
401 9th Street, NW
Suite 900
Washington, DC 20004-2128

In re Application of:
Hirokazu Yamagata et al.
Serial No.: 10/073,284
Filed: February 13, 2002
Attorney Docket No.: 740756-2435

DECISION *SUA SPONTE*
WITHDRAWING THE HOLDING
OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A non-final Office action was mailed on February 10, 2003. On November 20, 2003, a Notice of Abandonment was mailed which held the application abandoned for failure to timely file a proper reply to the non-final Office action. However, on June 12, 2003, a response (an amendment) and a petition and fee for a one month extension of time (EOT) were filed. The response and EOT each included a Certificate of Mailing dated June 10, 2003. Thus, the response was timely filed under the provisions of 37 C.F.R. §§§ 1.7(a); 1.8(a) and 1.136(a). Notwithstanding the timely response, on August 20, 2003, a letter from the examiner was mailed which restarted the period for reply set in the action of February 10, 2003 to run 3 months from the August 20, 2003 mail date of the letter.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated, the holding of abandonment withdrawn and the application restored to pending status in view of the timely response.

The response of June 12, 2003 will be processed by the Technical Support Staff of Technology Center 2800 and the examiner will be notified to resume prosecution.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components

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Alexandria, VA 22313-145

SEP 27 2004

FRANCOIS DELANEY
C/O Protections Equinox Int'l
4480 Cote-de-Liesse
Suite 224
Montreal, QC
H4N 2R1
CANADA

MAILED

SEP 27 2004

OFFICE OF THE DIRECTOR
TC 3600

In re application of
Francois Delaney :
Application No. 10/073,286 :
Filed: February 13, 2002 :
For: SYSTEM FOR LIFTING AND MOVING AN OBJECT :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on January 20, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

As to condition B), the reason given, that "the agents of record are no longer responsible for these files", is not acceptable. It is not clear that the statement satisfies one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). Condition B) can be met by clearly specifying one of the valid reasons for withdrawal under 37 CFR 10.40(b)(1)-(4) or (c)(1)-(6).

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 9/17/04

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Francois Delaney
C/o Protections Equinox International
4480 Cote-de-Liesse, Suite 224
Montreal , QC H4N 2R1
Canada

In re application of:
Francois Delaney
Application No. 10/073,286 : DECISION ON REQUEST
Filed: February 13, 2002 : FOR WITHDRAWAL OF
For: SYSTEM FOR LIFTING AND MOVING AN OBJECT : ATTORNEY

This is a decision on the request filed on June 20, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED AS MOOT**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in this application is not approved as moot because a revocation of power of attorney to Brouillette Kosie Prince was submitted to the United States Patent and Trademark Office on August 5, 2003. The power of attorney has been revoked as per the notice to that effect (enclosed).

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR: 9/2/04

Cc:

BROUILLETTE KOSIE PRINCE
1100 Rene-Levesque Blvd. West, 25th Floor
Montreal, Quebec, H3B 5C9
Canada

UNITED STATES PATENT AND TRADEMARK OFFICE

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Gunnar G. Leinberg, Esq.
Nixon Peabody LLP
1100 Clinton Square
P.O. Box 31051
Rochester NY 14604

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JUN 29 2010

OFFICE OF PETITIONS

Applicant: Berndt et al.	:	DECISION ON REQUEST FOR
Patent Number: Not Yet Available	:	RECALCULATION of PATENT
Issue Date: Not Yet Available	:	TERM ADJUSTMENT IN VIEW OF
Application No. 10/073,374	:	WYETH
Filed: February 12, 2002	:	

The Applicant's Request for Recalculation is **DISMISSED AS PREMATURE**. Applicant has filed the request based upon the USPTO determination that is provided to applicant in the notice of allowance.

The USPTO does not calculate and inform the applicant of the patent term adjustment based upon the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) or the overlapping provision in 35 USC § 154(b)(2)(A) in the notice of allowance because the USPTO must know the date the patent will issue to be able to calculate the patent term adjustment based upon these provisions. Accordingly, the USPTO does not determine the amount of "B" delay or the amount of overlap as required by Wyeth until the USPTO establishes a grant date.

Thus, reconsideration of the patent term adjustment indicated in the patent as it relates to the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) and any overlap pursuant to 35 USC § 154(b)(2)(A) are not considered matters that could have been raised in an application for patent term adjustment under 37 CFR 1.705(b)(provides for reconsideration of the patent term adjustment indicated in the notice of allowance). Therefore, a request for reconsideration of the patent term adjustment calculation based on the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) and the overlapping provision of 35 USC § 154(b)(2)(A) will be considered timely filed if filed within two months of the issue date of the patent.

Applicant may file a reply to this decision dismissing the Request for Recalculation. Applicant 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.

Applicant 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.

Applicant 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.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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William J. Crossetta Jr.
Crossetta & Associates
905 Convention Towers
43 Court Street
Buffalo NY 14202

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Burns	:	DECISION ON
Application No.: 10/073,393	:	
Filing Date: February 12, 2002	:	PETITION UNDER
Docket No.: N/A	:	
For: Self-Service Entry Control System	:	37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on July 10, 2006.

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 March 24, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on June 26, 2006 (since June 24, 2006 was a Saturday). A Notice of Abandonment was mailed on July 25, 2006.

Petitioner has met the requirements for revival under 37 CFR 1.137(b). Petitioner has submitted the reply in the form of the Issue Fee and Publication Fee (if required), paid the petition fee and made the required statement of unintentional delay. No Terminal Disclaimer is required since this application was filed after June 8, 1995. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

This application is being referred to the Publishing Division.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
on behalf of
Office of Petitions

Telephone: 571-272-3283
Facsimile: 571-273-0459

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JAN 30 2004

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JAN 30 2004

OFFICE OF THE DIRECTOR
TC 3600

Evgeny I. Rivin
4227 Foxpointe Dr.
West Bloomfield, MI 48323

Paper No. 8

In re Application of
Evgeny I. Rivin
Application No. 10/073,399
Filed: February 11, 2002
For: NONLINEAR AND ADJUSTABLE BUSHINGS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's letter filed September 9, 2003 which has been treated as a petition to withdrawal the holding of abandonment.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on January 25, 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/1/13/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,404	02/11/2002	Feng-Tso Chien	25740-02A	3989

7590 09/09/2004

CHINO-EXCEL TECHNOLOGIES CORP.
NO. 92, JIAN-YI ROAD
CHUNG-HO, TAIPEI HSIEN,
TAIWAN

EXAMINER	
MANDALA, VICTOR A	
ART UNIT	PAPER NUMBER
2826	

DATE MAILED: 09/09/2004

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. 072804

CARMODY & TORRANCE LLP
50 LEAVENWORTH STREET
P.O. BOX 1110
WATERBURG, CT 06721-1110

AUG 27 2004

In re Application of:
FENG-TSO CHIEN
Serial No.: 10/073,404
Filed: February 11, 2002
Attorney Docket No.: **2570-02A30-018**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed March 5, 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 Arthur G. Schaier.

The request is **APPROVED**.

It is noted that the application is now abandoned. There are no attorneys of record at this time.

All future communications from the Office will be directed to the assignee, Chino-Excel Technologies Corp. at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: CHINO-EXCEL TECHNOLOGIES CORP.
NO. 92, JIAN-YI ROAD
CHUNG-HO CITY, TAIPEI HSIEN, TAIWAN R.O.C.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/5/05

Paper No.:

TO SPE OF : ART UNIT 1732

SUBJECT : Request for Certificate of Correction on Patent No.: 6761847 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert

Thank You For Your Assistance — **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

MICHAEL P. COLAIANNI
SUPERVISORY PATENT EXAMINER

Michael P. Colaianni — 1732

SPE — **Art Unit**

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LOS ANGELES, CA 90045

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MAR 1 1 2004

OFFICE OF PETITIONS

In re Application of :
Victor Grubsky et al :
Application No. 10/073,425 : ON PETITION
Filed: February 11, 2002 :
Attorney Docket No. STADM-60980 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed June 13, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendment submitted does not *prima facie* placing the application in condition for allowance, no Notice of Appeal (and appeal fee) was timely filed. Extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 14, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $475.00 extension of time submitted with the petition on February 9, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 2874 for processing of the request for continued examination (RCE) under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SEP 0 1 2006

OFFICE OF PETITIONS

In re Application of: :
Ryu et al. :
Application No. 10/073,431 : DECISION ON
Filed: February 11, 2002 : PETITION
Title of Invention: :
USER INTERFACE SYSTEM FOR APPLYING :
DECISION VALUES TO OBJECTS :

This is a decision on the petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b), filed December 27, 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 reply in a timely manner to the nonfinal Office action, mailed March 15, 2005. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned June 16, 2005. A Notice of Abandonment was mailed December 8, 2005.

With the instant petition, Applicant has filed an Amendment in response to the non-final Office action.

This application is being returned to Technology Center 2173 for processing of the Amendment in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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United States Patent and Trademark Office
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NEW YORK NY 10112-4498

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OFFICE OF PETITIONS

In re Application of :
Andrey Rzhetsky et al. :
Application No. 10/073,463 : DECISION ON PETITION
Filed: February 11, 2002 :
Attorney Docket No. AP34006 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 20, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 21, 2008.

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 $525.00 extension of time fee submitted with the petition on June 13, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit 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 amendment, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay.

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.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 1631 for appropriate action by the Examiner in the normal course of business on the reply received.

Irvin Dingle
Petitions Examiner
Office of Petitions

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AUG 23 2004

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON MA 02110

In re Application of:
Handa et al.
Serial No.: 10/073,548
Filed: February 11, 2002
Attorney Docket No.: 07064-012001/0820-NF236

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR. § 1.8(b), 37 CFR § 1.181(a), and MPEP 711.03(c) filed on May 28, 2004, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed July 15, 2003.

A review of the file history shows that the examiner mailed an Office action (restriction requirement) to applicants on July 15, 2003, setting a one-month statutory time period for reply. On April 4, 2004 the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that a petition for a one-month extension of time and a response to the Office action were timely filed on September 4, 2003, as evidenced by the properly executed Certificate of First Class Mailing on the reply. Applicants provide a copy of the petition for a one-month extension of time with the requisite fee, a response to the Office action with the petition, and a declaration by John W. Freeman, esq. attesting to the fact that the response was mailed on September 4, 2002. In view of this evidence, applicants are considered to have submitted a timely reply.

Applicants' petition is **GRANTED**. The application is restored to pending status with the mailing date of this decision and will be forwarded to the examiner for consideration of the elected invention on the merits.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Bruce Kisliuk
Director, Technology Center 1600

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PAPER NO. 24

S. C. JOHNSON & SON, INC.
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RACINE WI 53403-2236

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OFFICE OF PETITIONS

In re Application of :
Brian Dais, et al :
Application No. 10/073,559 : ON PETITION
Filed: February 11, 2002 :
Attorney Docket No. J-3227 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 13, 2003, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 2, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

It is noted that 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 should be directed to the undersigned at (703) 305-9220.

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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 the application is received in the Office of Petition, the file will be forwarded to Technology Center AU 3744 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

cc:

McCRACKEN AND FRANK
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