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Paper 12

DAVID S. BROWE
26250 SCHOONER DRIVE
NEW LENOX IL 60451

COPY MAILED

MAR 06 2006

OFFICE OF PETITIONS

In re Application of
David S. Browe
Application No. 10/073,582
Filed: February 12, 2002
Title of Invention: **RENEWABLE STORED ENERGY POWER GENERATING APPARATUS**

ON PETITION

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

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) 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.

This application became abandoned for failure to timely reply to the final Office Action mailed May 14, 2003. An response filed June 19, 2003 was considered and the applicant was advised in an advisory action mailed July 15, 2003 that the response did not place the application in condition for allowance. No timely response having been filed thereafter, this application became abandoned. Accordingly, a Notice of Abandonment was mailed November 18, 2003.

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

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

(2) the petition fee required by 37 CFR 1.17(l);

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

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of May 13, 2003, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application.

No additional response was submitted with the petition, just the petition and the petition fee. Petitioner must submit a proper reply to the final Office action mailed on May 13, 2003, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper 14

DAVID S. BROWE
26250 SCHOONER DRIVE
NEW LENOX IL 60451

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MAY 3 1 2006

OFFICE OF PETITIONS

In re Application of :
David S. Browe :
Application No. 10/073,582 :
Filed: February 12, 2002 :
Title of Invention: **RENEWABLE STORED ENERGY POWER GENERATING APPARATUS** :

ON PETITION

This is a decision on the request for reconsideration, filed May 2, 2005 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 final Office Action mailed May 14, 2003. An response filed June 19, 2003 was considered and the applicant was advised in an advisory action mailed July 15, 2003 that the response did not place the application in condition for allowance. No timely response having been filed thereafter, this application became abandoned. Accordingly, a Notice of Abandonment was mailed November 18, 2003. A petition filed November 2, 2005 was dismissed in a decision mailed March 6, 2006 because it was filed without a response to the final Office Action mailed May 14, 2003, in compliance with 37 CFR 1.137(b)(1).

---

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

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

(2) the petition fee required by 37 CFR 1.17(l);

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

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

Comes now petitioner with the instant renewed petition

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation in part application under 37 CFR 1.53(b); (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuation in part application no.11/265,661 filed November 2, 2005, pursuant to the provisions of 37 CFR 1.53(b).

This matter is being referred to Technology Center 3748 for processing of the continuation application filed November 2, 2005.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. 10

SRI International
333 Ravenswood Avenue
Menlo Park, CA 94025

FEB 20 2004

In re Application of:
Patrick D. Lincoln
Serial No.: 10/073,597
Filed: February 11, 2002
Attorney Docket No.: US-4446-2

DECISION ON REQUEST
TO WITHDRAW FROM RECORD

This is a decision on the request by Frank L. Bernstein to withdraw as attorney/agent of record pursuant to 37 C.F.R. §§ 1.36 and 10.40 filed on June 17, 2003. Mr. Bernstein apparently intended to sign on behalf of all attorneys/agents presently of record in this application. If such is not the case, Mr. Bernstein is requested to notify the undersigned as soon as possible.

The request is **APPROVED** for the withdrawal of all of the attorneys/agents presently of record. The withdrawal is effective as of the date of this letter not when the request for withdrawal was filed.

As of the mail date of this letter, the application will have no attorney/agent of record. Although a revocation/new power of attorney was filed by the assignee on October 22, 2003, it is improper since it was not filed with a proper 37 C.F.R. § 3.73(b) statement.

As requested, all future communications from the Office will be directed to Ms. Deborah A. Neville, Esq. at the address provided below unless otherwise notified by applicant.

Any inquiries concerning this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

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

Deborah A. Neville, Esq.
4328 Canoas Drive
Austin, TX 78730

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Paper No.

IBM CORPORATION
INTELLECTUAL PROPERTY
LAW DEPT.
P.O. BOX 218
YORKTOWN HEIGHTS NY 10598

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DEC 14 2007
OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Rajan et al.	:	and
Application No. 10/073,608	:	NOTICE OF NONACCEPTANCE OF
Filed: February 11, 2002	:	POWER OF ATTORNEY AND
Atty Docket No. YOR920020050	:	CHANGE OF
	:	CORRESPONDENCE ADDRESS

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed August 9, 2007. For the reasons stated in the decision, the petition is also being treated as a petition under 37 CFR 1.181 (no fee) to withdraw the holding of abandonment.

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

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

The above-identified application became abandoned for failure to reply to the Notice of Non-Compliant Appeal Brief (37 CFR 41.37) mailed December 15, 2006. The Notice set a period for reply of one month from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on January 16, 2007. The filing of the instant petition preceded the mailing of a courtesy Notice of Abandonment on August 14, 2007.

On petition, petitioners argue citing MPEP 1205.03 that the requirement for a corrected brief should not have been made. Petitioners request a refund of the fee for the Petition for Revival on the grounds that the requirement to correct the brief (which led to the abandonment) should not have been made. The petition fee under 37 CFR 1.137(b) is not subject to refund based on the outcome of the petition. Payment of the fee is a statutory prerequisite to consideration of the petition under 37 CFR 1.137(b).

Nonetheless, a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment on the basis that the requirement for a corrected brief should not have been made is a no fee petition. Accordingly, the petition is first going to be considered under 37 CFR 1.181.

The facts and circumstances of the abandonment have been considered and it is concluded that withdrawal of the holding of abandonment is not warranted. It is undisputed that applicants failed to timely reply to the Notice of Non-Compliant Appeal Brief. This is controlling. To prevent abandonment of the applicants had to either get the Notice of Non-Compliant Appeal withdrawn or vacated within the extended period for reply or submit an acceptable reply. Applicants allowed the period for reply to expire and first presented their argument on this petition. As such, the abandonment is proper and will not be withdrawn.

Consideration now turns to the petition under 37 CFR 1.137(b). Petitioner has satisfied the requirements of 37 CFR 1.137(b). The petition included the required reply in the form of a corrected Appeal Brief, the petition fee, and the required statement of unintentional delay.

Receipt of the Power of Attorney and Correspondence Address Indication Form filed with the petition on August 9, 2007 is acknowledged. However, the Power of Attorney and Correspondence Address change are not made of record. This form is signed by attorney Robert Trepp on behalf of International Business Machines Corporation. The 3.73(b) statement required for assignee to take this action was not received with the Power of Attorney and Correspondence Address Indication Form (and is not of record in the application). Accordingly, the request has no effect. See MPEP 324. Submission of a proper 3.73(b) statement

or a power of attorney and change of address by a proper party is required to effectuate this change.

The application file is being forwarded to Technology Center AU 2121 for consideration by the examiner of the Appeal Brief submitted on petition filed August 9, 2007.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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SEP 29 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Cummings and Lockwood
Granite Square
700 State Street
P.O. Box 1960
New Haven, CT 06509-1960

Paper No. 4

In re application of
Brian C. Tarbox
Application No. 10/073,632
Filed: February 11, 2002
For: SYSTEMS AND METHODS FOR IMPROVING INVESTMENT PERFORMANCE

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED EXAMINATION)**

This is in response to the petition filed on August 11, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII. The delay in treating this petition is sincerely regretted.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703)308-0866

KJD/ekn 9/11/03

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JUL 26 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

McCarter & English LLP
Cityplace I
185 Asylum Street
Hartford, CT 06103

In re application of	:	**DECISION ON PETITION**
Brian C. Tarbox et al.	:	**TO MAKE SPECIAL**
Application No. 10/073,632	:	**(ACCELERATED**
Filed: February 11, 2002	:	**EXAMINATION)**
For: SYSTEMS AND METHODS FOR IMPROVING INVESTMENT PERFORMANCE	:	

This is in response to the petition filed on July 16, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/vdb: 7/13/04

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MAY 11 2004

In re Application of	:	
Noah Slomowitz	:	
Serial No. 10/073,661	:	DECISION ON PETITION
Filed: February 11, 2002	:	TO WITHDRAW AS ATTORNEY
For: DISPLAY DEVICE	:	

By papers filed on February 18, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the current correspondence address for this application is:

Mr. Noah Slomowitz
Etzion Candles, Ltd.
Kibbutz Merav
M.P. Gilboa, 19148, ISRAEL

E. Rollins-Cross, Director
Technology Center 3700

Paul R. Steffes
Renner, Otto, Boisselle & Sklar, LLP
1621 Euclid Avenue, 19th Floor
Cleveland, OH 44115

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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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OFFICE OF PETITIONS

In re Application of :
Paul C. Huang et al :
Application No. 10/073,666 : ON PETITION
Filed: February 11, 2002 :
Attorney Docket No. 1657.55UUS01 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 20, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed January 26, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The reply submitted on July 2, 2004 (originally filed March 29, 2004) did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed August 13, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed, and no extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 27, 2004.

The above-identified application is being revived for consideration of a submission under 37 CFR 1.114 (request for continued examination (RCE)).

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3714 for processing of the RCE under 37 CFR 1.114.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patrick J. S. Inouye P.S.
810 3rd Avenue
Suite 258
Seatlle, WA 98104

MAIL

OCT 2 5 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Kenton E. Noble, et al.
Application No.: 10/073,669
Filed: February 11, 2002
For: SYSTEM AND METHOD FOR PROVIDING A JAVA CODE RELEASE INFRASTRUCTURE WITH GRANULAR CODE PATCHING

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1. 36 and 10.40(c) filed April 18, 2002.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1. 36 was filed on August 12, 2002. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Hickman, Palermo, Truong & Becker as the attorneys of record of the instant application. The Power Of Attorney of August 12, 2002 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Hickman, Palermo, Truong & Becker.

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

No further communication to you regarding this application will be made.

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

cc: Hickman, Palermo, Truong & Becker
1600 Willow Drive
San Jose, CA 95125

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United States Patent and Trademark Office
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William L, Botjer
PO Box 478
Center Moriches NY 11934

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MAR 07 2005

OFFICE OF PETITIONS

In re Application of
Taskar, et al.
Application No. 10/073,702
Filing date: February 11, 2002
Attorney Docket No. 02-03
For: HIGH RESOLUTION TILED MICROCHANNEL STORAGE PHOSPHOR BASED RADIATION SENSOR

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 28, 2005 (certificate of mailing date January 26, 2005) , to revive the above-identified application.

The petition is **granted**.

This application became abandoned on August 19, 2004 for failure to timely file drawings on or before August 18, 2004 as required by the Notice of Allowability mailed May 18, 2004. A Notice of Abandonment was mailed on September 30, 2004.

The instant petition contains the required corrected formal drawings, an acceptable statement regarding the unintentional nature of the delay in responding to the May 18, 2004 Notice of Allowability, and the petition fee.

After the mailing of this decicions, the application will be forwarded to Publishing Division for consideration of the corrected formal drawings submitted with the instant petition.

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

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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GIFFORD, KRASS, SPRINKLE,
ANDERSON et. al.
2701 TROY CENTER DRIVE
STE. 330
TROY, MI 48007

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OFFICE OF PETITIONS

In re Application of

Willard, et al. :

Application No. 10/073,717

: DECISION ON PETITION

Filed: February 11, 2002

:

Attorney Docket No. PIA-10302/04

This is a decision on the petition under 37 CFR 1.137(b), filed February 7, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed June 16, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was filed on December 16, 2005, with a request for an extension of time within the third month. The response failed to place the application in condition for allowance. The application became abandoned on December 17, 2006. A Notice of Abandonment was mailed on February 2, 2007.

The Request for Continued Examination filed February 7, 2007, is noted and made of record.

The application is being forwarded to Technology Center 1700, GAU 1743 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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CAROL A. LEWIS WHITE, ESQ.
W. L. GORE & ASSOCIATES, INC.
551 PAPER MILL ROAD
P.O. BOX 9206
NEWARK, DE 19714-9206

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OFFICE OF PETITIONS

In re Application of	:	
John James Scanlon	:	
Application No. 10/073,724	:	ON PETITION
Filed: February 11, 2002	:	
Attorney Docket No. FL/143	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before January 30, 2004. Accordingly, this application became abandoned on January 31, 2004.

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

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

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

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Paper No. 8

MAIL

MAR 25 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

In re Application of
Andrew HUNTER, et al.
Application No. 10/073,727
Filed: February 11, 2002
For: **ENVIRONMENTAL CAMERAS**

DECISION ON PETITION

This is a decision on the petition filed January 26, 2004, under 37 C.F.R. § 1.181(a) to withdraw holding of abandonment.

The application was held abandoned for failure to respond in a timely manner to the Non-Final Office action mailed May 7, 2003. The application became abandoned when no further response was received. A Notice of Abandonment was mailed December 12, 2003.

Petitioner alleges to have timely submitted a response to the Office Action. In support, the Petitioner has included a copy of the return postcard date stamped September 2, 2003, itemizing a transmittal letter, an Amendment, a petition for extension of time, a substitute specification and one sheet of formal drawings. Petitioner notes that the serial number is incorrectly listed on the transmittal and petition for extension of time. However, the proper serial number is listed on the amendment and formal drawings.

The original papers filed were not matched with the file and cannot be located. However, M.P.E.P. 503 states, "[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, it is concluded that the papers were timely filed in the Patent and Trademark Office but not matched with the application file.

In view of the above, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application will be forwarded to Technology Center's technical support staff for processing the petition for extension of time, amendment and substitute specification. From there, the file will be forwarded to the examiner for examination in due course. Petitioner is reminded of the importance of correctly indicating application information on all papers filed.

Jin F. Ng, Director
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 13, 2007

TO SPE OF : ART UNIT 2616 Wellington Chin

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/073,756 Patent No.: 7170859 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**.

Antonia 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: _____

SPE

2616
Art Unit

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COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

GEMFIRE c/o HAYNES BEFFEL & WOLFELD LLP
P.O. BOX 366
HALF MOON BAY CA 94019

In re Application of	:	
Markus P. Hehlen et al.	:	
Application No. 10/073,763	:	DECISION ON PETITION
Filed: February 11, 2002	:	UNDER 37 C.F.R. §1.181(A)
Attorney Docket No. 56	:	
Title: INTEGRATED OPTICAL ISOLATOR ARRAY	:	

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on May 11, 2006.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed November 22, 2004, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1]. Accordingly, the above-identified application became abandoned on February 23, 2005. A Notice of Abandonment was mailed on March 2, 2006.

With the present petition, Petitioner has alleged that the notice of November 22, 2004 was not received. A discussion follows.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. §1.181(f) sets forth, *in toto*:

The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months

1 See MPEP §710.02(e).

of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

MPEP 711.03(c) sets forth, in pertinent part:

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION

In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

ANALYSIS

37 C.F.R. §1.181(f) indicates that any petition submitted under this portion of the C.F.R. that is not filed within two months

of the mailing date of the action or notice from which relief is requested may be dismissed as untimely. The present petition was submitted over two months after the mailing of the notice of abandonment. As such, the present petition will be dismissed.

It is noted in passing that even if this petition were to be accepted as timely filed, it could not be granted.

Petitioner has asserted that the Office communication was not received. He has indicated that the communication of November 22, 2004 was mailed to an address in Palo Alto, and "the assignee had previously moved in June 2002 to it's current address in Freemont, CA[2]."

Petitioner notes that the communication was returned to the Office by the United States Postal Service on December 8, 2004, and that "no attempt was made by the PTO to re-mail the Notice of Allowance[3] or find Applicant's correct address until the Notice of Abandonment was mailed 15 months later[4]."

Petitioner will note that pursuant to 37 C.F.R. §1.33(a), the Office will direct all notices relating to an application to the correspondence address. As such, the communication was properly mailed to the location in Palo Alto, as instructed by Applicant. The communication was not received however, because Applicant had not been located at that address for over two years.

MPEP §601.03 sets forth, in pertinent part:

> Where an attorney or agent of record (or applicant, if he or she is prosecuting the application pro se) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office (emphasis added) of the new correspondence address (including ZIP Code). The notification should also include his or her telephone number. A change of correspondence address may not be signed by an attorney or agent not of record (see MPEP § 405).

It is obvious that Applicant did not meet his responsibility of notifying the Office when the assignee moved in June of 2002. Due to the failure to meet this responsibility, the communication was not received, and the application went abandoned as a direct result of this inaction.

Petitioner has correctly stated that the Office failed to attempt to find Applicant's correct address when the notice of allowance was returned as undeliverable. The Office will not perform searches and track down applicants when they fail to meet their obligation of submitting a change of address to the

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2 Petition, page 1.

3 This assertion is incorrect: the notice was mailed on March 16, 2004, and was returned as undeliverable on April 9, 2004. A second notice was mailed on November 22, 2004, which was again returned as undeliverable on December 8, 2004.

4 Petition, page 2.

Office in a timely manner. The assignee moved in June of 2002, and failed to submit a change of address until almost four years had elapsed[5].

CONCLUSION

For the reasons discussed above, the petition under 37 C.F.R. §1.181 must be **DISMISSED**.

Any renewed petition under 37 C.F.R. §1.181 must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The request for reconsideration should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181," and should only address the deficiencies noted in this decision.

Alternatively, Petitioner may wish to consider filing a petition under 37 C.F.R. §§1.137(a) and/or (b).

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[6], hand-delivery[7], or facsimile[8].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[9]. 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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5 A Power of Attorney was submitted on May 9, 2006.
6 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
7 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
8 (571) 273-8300- please note this is a central facsimile number.
9 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

GEMFIRE c/o HAYNES BEFFEL & WOLFELD LLP
P.O. BOX 366
HALF MOON BAY CA 94019

COPY MAILED
OCT 30 2006
OFFICE OF PETITIONS

In re Application of	:	
Markus P. Hehlen et al.	:	
Application No. 10/073,763	:	DECISION ON PETITION
Filed: February 11, 2002	:	UNDER 37 C.F.R. §1.137(B)
Attorney Docket No. 56	:	
Title: INTEGRATED OPTICAL	:	
ISOLATOR ARRAY	:	

This is a decision on the petition filed on September 12, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed November 22, 2004, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[2]. Accordingly, the above-identified application became abandoned on February 23, 2005. A Notice of Abandonment was mailed on March 2, 2006.

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1 A grantable petition pursuant to 37 C.F.R. 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP §710.02(e).

A petition pursuant to 37 C.F.R. §1.181 was filed on May 11, 2006, and was dismissed via the mailing of a decision on July 31, 2006.

With the present petition, Petitioner has submitted the petition fee, a Request for Continued Examination (RCE), an amendment, the associated fee, and the proper statement of unintentional delay. A terminal disclaimer is not required.

As such, the petition is **GRANTED**.

The application file will be forwarded to the Technology Center. The Technology Center's support staff will notify the Examiner of this decision, so that the RCE and the accompanying amendment, both received with the present petition, can be processed.

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

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).

UNITED STATES 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 14

DOUGLAS A. BOEHM
826 SUNNYSIDE ROAD
ROSELLE IL 60172

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MAY 11 2005

OFFICE OF PETITIONS

In re Application of
Philip Molfese
Application No. 10/073,821
Filed: February 11, 2002
Attorney Docket No.: GTI0001USA

ON PETITION

This is a decision on the petition filed December 28, 2004 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed August 12, 2003. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned November 13, 2003. Accordingly, a Notice of Abandonment was mailed April 5, 2004.

This matter is being referred to Technology Center 3744 for appropriate action on the amendment filed December 28, 2004.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 17 2004

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

In re Application of	:	
Robert J. Medoff et al	:	
Serial No. 10/073825	:	WITHDRAW FROM ISSUE
Filed: February 11, 2002	:	
Title: FRACTURE FIXATION DEVICE IN WHICH	:	
A FIXATION PIN IS AXIALLY RESTRAINED	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 C.F.R. 1.313.

The application is being withdrawn to permit reopening of prosecution due to unpatentable claims.

PTO records reveal that the issue fee has not been paid. If the fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the Examiner for action.

John E. Kittle
Director
Technology Center 3700/2900

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OFFICE OF PETITIONS

Richard V. Folea Jr.
8080 Miliford Rd
Gainesville GA 30506

In re Patent No. 6,988,229	:	
Issue Date: January 17, 2006	:	
Application No. 10/073,830	:	ON PETITION
Filed: February 11, 2002	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.378(c), filed March 3, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight January 17, 2010, for failure to pay the 3½ 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 JoAnne Burke at (571) 272-4584.

/JoAnne Burke/
JoAnne Burke
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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NIXON & VANDERHYE P.C.
1100 NORTH GLEDE ROAD, 8TH FLOOR
ARLINGTON, VA 22201-4714

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JAN 27 2005

OFFICE OF PETITIONS

In re Patent No. 6,796,955	:	
Issue Date: September 28, 2004	:	
Application No. 10/073,855	:	ON PETITION
Filed: February 14, 2002	:	
Attorney Docket No. 3659-40	:	

This is a decision on the petition filed October 4, 2004, which is being treated as a petition under 37 CFR 3.81(b)[1] to delete the assignee's address on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

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

[1] See Official Gazette of June 22, 2004

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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12/3/99

Response to Decision
2-1-00

Paper No. 11

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SPECIAL PROGRAMS OFFICE
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Oblon Spivak McClelland Maier & Neustadt
1755 Jefferson Davis Highway
Fourth Floor
Arlington VA 22202

In re Application of Mats Leijon, et al Application No. 09/147,325 Filed: February 17, 1999 Attorney Docket No. 9847-0001-6X	: RESPONSE TO PETITION UNDER : 37 CFR 1.182 SEEKING SPECIAL : TREATMENT RELATING TO AN : ELECTRONIC SEARCH TOOL, AND : DECISION ON PETITION UNDER : 37 CFR 1.183 SEEKING WAIVER : OF REQUIREMENTS UNDER 37 CFR : 1.98

This is a response to a September 29, 1999 Petition Under 37 CFR 1.182, requesting relief from the current requirements for Information Disclosure Statements under 37 CFR 1.98 in view of the need to file multiple applications relating to different aspects of a particular invention. The petition will be treated as two separate petitions: a first petition under 37 CFR 1.182, relating to submission of an electronic search tool and the need to protect proprietary information therein, and a second petition under 37 CFR 1.183, requesting relief from the § 1.98 provision which requires filing paper copies of references being cited in each of many related applications.

A Decision on the petition under 37 CFR 1.182 re the electronic search tool will be issued in due course.

The petition under 37 CFR 1.183 re the submission of 3 paper copies of IDS citations in a holding application is Granted to the extent set forth below.

The Decision is set forth in five parts:

- Part I. Background
- Part II. Petition Under 37 CFR 1.182 - Electronic Search Tool
- Part III. Petition Under 37 CFR 1.183 - Paper Copies

- Part IV. Summary
- Part V. Further Correspondence

Part 1. Background

The instant national stage application filed under 35 U.S.C. 371 currently contains claims 77-153 with three independent claims. The instant application is one of about 200 U.S. applications (either filed or to be filed) with each U.S. application having as many as 40 corresponding foreign applications (either filed or to be filed), the applications relating to different aspects of the invention. An Information Disclosure Citation List has been submitted that lists 259 U.S. patents, 369 foreign patent documents, and 43 other references for a total of 671 citations. Additionally, a list of related cases has been supplied containing 31 U.S. applications and 52 PCT applications. Paper copies have not been supplied in the related applications of any of the citations or the identified related cases.

37 CFR 1.56(b)(1) requires disclosure to the Office of information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98. 37 CFR 1.56(a).

Petitioner asks "[w]hether the information cited in the manner proposed in [petition] Section 3.1.1 ... is a disclosure that is sufficient to meet the requirements of 37 CFR § 1.56." To the extent that this question refers to the content of the disclosure and the particulars of the subject applications, the Office will not answer the question. It is Office practice not to attempt to define how an individual "ensures" compliance with the rule in a particular application. See, e.g., MPEP 2004. Because determinations on this issue require an evaluation of the intent of the party involved, the Office declines to investigate the question. See MPEP 2010. To the extent that Petitioner's question concerns the form in which the disclosure is provided, rule 56 permits a disclosure in a combination of paper and electronic formats.

Petitioner, in addition to meeting the duty set forth in 37 CFR 1.56 to disclose material information, also wishes to disclose to the Office information that may not meet the definition of

materiality as set forth in the rule[1]. Information identified by U.S. or foreign examiners in any of the related U.S. and foreign applications would be cited in each of the related U.S. applications.[2] In addition, Petitioner seeks to submit other information in each of the related U.S. applications, such as all the co-pending U.S. applications that relate to the invention (useful for determining possible double patenting rejections), and foreign search reports. Petition, page 4.

Rather than be required to submit, via a paper copy, each piece of information in each application each time the information is obtained, Petitioner seeks to have:

> (1)(a) one application (the instant application) identified as a "holding" application which would contain a complete set of paper copies of references; the paper copies to be submitted in only the "holding" application;
>
> (b) the other related pending U.S. applications, hereafter referred to as the bulk filing applications, will not contain the paper set of reference copies but will contain other information, e.g., a copy of the decision on petition[3] permitting such procedure and a copy of the Form 1449 (or equivalent);[4] and
>
> (2) an "electronic search tool"[5] containing different types of information.

The information supplied via the paper copies would be updated monthly, rather than as received from U.S. and foreign examiners, and cancellation of this arrangement would be an option for both

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[1]Reference to MPEP 2001.05, Petition, page 3.

[2]Petition, page 3. The present petition requesting relief does not set forth any commitment nor intent by applicant to screen such information for relevancy to each of the U.S. applications in which the information is being cited.

[3]The original of which would be in the instant holding application.

[4]See, Petition under 37 CFR 1.182, *infra*.

[5]See, Petition under 37 CFR 1.183, *infra*.

Petitioner and the Office upon notice. These, and other more specific conditions, are discussed in further detail in regard to the § 1.182 petition, below.

Petitioner has essentially requested relief in two areas: (1) treatment of information in an electronic search tool, to be submitted independent of any particular application, as in compliance with IDS submission requirements for all bulk filing applications, and (2) the ability to provide the paper copies of each reference in an IDS submission in only one of the bulk filing applications (the instant holding application) as well as two additional sets of copies rather than as is normally required in each application for which the reference (IDS citation) is to be considered. These two areas of relief are independent of each other and drawn toward different regulations. Accordingly, the petition has been treated as two petitions, and the present decision addresses the two areas of requested relief separately. While it is undeniable that relief in both areas would be of benefit to Petitioner, the granting of relief in one area does not, in fact, require the granting of relief in the other. Moreover, in view of the need to further consider the requested relief related to the electronic search tool, deciding the requested relief issues separately permits at this time a partial grant of the original petition.[6]

Part II. Petition under 37 CFR 1.182- Electronic Search Tool

The issues involving the electronic search tool are more extensive than those relating to the requirement for paper copies in each bulk filing application and more time is needed to fully consider and address them. Accordingly, the petition under § 1.182 shall not be decided at this time and is not treated in the instant decision on the § 1.183 petition although it will continue to be considered, with a decision rendered in due course.

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[6]It is recognized that petitioner believes the issues presented by the petition may not be decided independent of one another as both the paper copy issue and the electronic search tool issue represent the most complete solution to duty of disclosure issues under 37 CFR 1.56, Petition, fn. 5.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

The submitted petition fee of $130 will be treated as the § 1.183 petition fee.

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, page 600-102, right-hand column, and page 600-103, left-hand column.

Paper copies: Petitioner notes that the instant application is one of 200 bulk filing applications that will be or have been filed in regard to a particular technology. Accordingly, Petitioner requests that individual paper copies of each reference, brought to the attention of the Office in regard to any one individual application, not be required to be submitted in each such application. Rather, it is requested that three complete sets of paper copies be permitted to be filed: one set for the instant application which will be designated as a holding application; one set to be used to establish new subclasses for the technology; and one set to be used as a reference set should either or both of the other two sets become corrupted (Petition, pages 6 and 7).[7]

Once past the initial IDS submission, it is proposed that applicant would update the IDS submissions once a month, rather than every time a new reference is found, although the time frames required by § 1.97 would have to be complied with, which may mean that submissions may occur more frequently than once a month.

Form 1449: In addition to submission of the three sets of paper copies in the instant "holding" application, the petition proposes that each of the bulk filing applications would receive a Form 1449 listing the reference citations (Petition, page 7) and the Form 1449 (in each of the bulk filing applications) would be updated, pursuant to the time requirements of § 1.97, each time the three sets of paper copies are updated. The petition is

[7]It would presumably up to the Technology Center to determine how best to store the reference set and how it is to be accessed.

silent as to whether other types of information that may be submitted in the holding application IDS, e.g., concise explanations of foreign language documents under § 1.98(a)(3), would also be supplied in all the bulk filing applications.

Suspension of action: In view of the use of the instant application as a holding application (to contain a complete set of paper copies of reference citations, which can be consulted by the examiner when examining any of the other bulk filing applications that have a Form 1449 but not the paper copies), the petition states that upon allowance of the instant holding application the right is reserved to file a petition to suspend action in the instant application so that the application can remain as the holding application (Petition, page 7). Alternatively, upon agreement of the Assignee and a Director of the Technology Center involved, an alternate application may be designated as the holding application.

New subclasses: The petition envisions an affirmative duty on the Technology Center to establish new subclasses that will include each of the references submitted during the course of prosecution of the bulk filing applications.[8] In addition, the Office is to agree that "[e]xaminers will be required to search these newly created subclasses" (from submissions by the Assignee and later by others) "as part of the routine patent prosecution process." Petition, page 8.

Termination: Petitioner seeks a right of termination,[9] which is to be a mutual option. Termination is to be by written notice, to the attorney of record if the Office terminates and the filing of a termination request and by contacting the Director of TC 2800 if applicant terminates. Conventional IDS procedures would begin three months after notice of termination.

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[8]The new subclasses will later be supplemented by references supplied by others who may file applications related to the same technology.

[9]Although termination is discussed under a section related to licensing of the electronic search tool and the petition generally (Petition, pages 10 and 11), it is presumed that Petitioner intends to have the termination provision apply to the waiver of paper copies if that alone is granted.

37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of references in 200 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available to different examiners handling the various applications,[10] on balance, there is seen to be sufficient benefit to justify waiver in this instance.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below.[11]

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[10]Even thought the technology of the applications may be related, the specific claims of the applications may require different classifications of the applications and the quantity of applications would dictate the need for more than one examiner to timely examine the applications.

[11]The waiver being granted in this instance is not intended to set a general precedent where there is more than one application containing related subject matter. The Office, however, intends to use the instant grant to study whether the opportunity for waiver can be extended to other applicants in similar circumstances, and whether a more general program can be announced. One factor that will be considered is the extent to which relevant information (that may not be necessarily required by § 1.56(b) but which would nonetheless be useful to the examiner, e.g., § 1.56(a)(1) and (2)), is submitted rather than huge dumps of nonrelevant or marginally relevant information.

It is noted that while the petition only refers to the submission of citations that are made by both U.S. and foreign examiners, the term "include" is used (Petition, page 2) which is open ended. The Petition states that it is the intention to submit a copy of every reference identified both by U.S. examiners in the 200 U.S. applications and by foreign examiners in as many as 40 corresponding foreign applications for each U.S. application (Petition, page 3). It has not been stated whether the current 671 reference citations currently of record represent only those citations made by U.S. and foreign examiners or whether they include citations from other sources, such as a

The § 1.98(a)(2) requirement for (the submission of) a copy of each IDS citation in a bulk filing application will be waived in the bulk filing application provided that the following 8 conditions are complied with:

1) Three paper copies of each IDS citation are or have been submitted to the Office;

2) The (bulk filing) application for which waiver of § 1.98(a)(2) is desired refers to the instant holding application, such as by a claim of priority under 35 U.S.C. 120, or as containing related technology;

3) The information is or has also been cited in the holding application;

   Note: Applicant is not required to cite in each bulk filing application every item of information that is cited in the instant holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

   A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the instant holding application.

4) A copy of this Decision is filed in the bulk filing application;

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), once submitted in the holding application must be supplied in each bulk filing application where the citation is made.

6) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would

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preexamination search or third party citations. See also Petition, page 19.

have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

7) The grant of the § 1.183 petition re § 1.98(a)(2) does not indicate that the Office would favorably treat a petition to suspend action under § 1.103(a) should the instant application be allowed. Issuance of the instant application as a patent is not seen to terminate its usefulness either: (1) as a holding application for references by examiners working on other related applications,[12] or (2) as a vehicle for the storage of references to be cited even after the patent issues (35 U.S.C. 301, 37 CFR 1.501, and MPEP 2202). Should the instant application become abandoned, the issue of continued introduction of paper copies of new citations could be taken up at that time. The Office, however, may consider suspending or taking other appropriate action in the instant holding application in the event the holding application is allowed, if it is in the best interest of the Office to do so.

8) The Office has established a series of Official Digests in Class 174 based on the technology represented by the instant invention (a classification schedule thereof is attached). As is the case will all Digests, their usefulness will be continually evaluated. The Office will place the holding application's references in the Digests as they are determined to require such placement and as new ones are brought to the attention of the Office either by Petitioner or a third party. A search of the Digests themselves or what they contain (such as the holding application or reference copy sets), either in paper copy or electronic form, will be

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[12]The patent file can be kept in the Technology Center for easy reference, or rather than rely upon the patent, either the reference set of paper copies could be utilized, or the Office may decide to rely on the Digests being created.

conducted when mandatory based on the classification of the claims, or when deemed advisable - on a case by case basis.

Part IV. Summary

A Decision on the Petition under 37 CFR 1.182, drawn toward submission of the electronic search tool, will be acted upon in due course when all outstanding issues are resolved.

The petition under 37 CFR 1.183 agreeing to supply three copies of each IDS citation in a holding application and requesting waiver of the paper copy requirement for submission in every related application under § 1.98(a)(2) is granted, however, the following is not agreed to:

- the grant of a future petition under 37 CFR 1.103 for suspension from publication of the holding application should it be allowed,
- the required search of subclasses from one of the three sets of paper copies and placement of one of the other sets of paper copies therein, and
- any termination provision more than two months (rather than the three months that the petition sets forth) from notice of termination.

Part V. Further Correspondence

Further correspondence with respect to this matter should be addressed to Hiram H. Bernstein, Senior Legal Advisor, Special Program Law Office, as follows:

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Special Program Law Office

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

Telephone inquiries specific to this matter should be directed to Mr. Bernstein at (703) 305-9285.

The instant application will be retained by this Office: for a period of TWO MONTHS to await any response to the instant Decision, and for the purpose of continuing review of the § 1.182 petition re the electronic search tool.

Robert J. Spar
Director
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

Attachment: List of Digests 13-33

Digest 13	HIGH VOLTAGE CABLE (E.G., ABOVE 10KV, CORONA PREVENTION, ETC.)
Digest 14	. Having a particular cable application (e.g., winding, etc.)
Digest 15	.. In a power generation system (e.g., prime-mover dynamo, generator system, etc.)
Digest 16	.. In a motive power system (e.g., electric motor control system, etc.)
Digest 17	.. In an electric power conversion, regulation, or protection system
Digest 18	.. In a power distribution network
Digest 19	.. In a dynamo-electric machine
Digest 20	... Stator
Digest 21	... Rotor
Digest 22	... Winding, per se
Digest 23	.. In a circuit breaker, relay, or switch
Digest 24	.. In an inductive device (e.g., reactor, electromagnet, etc.)
Digest 25	... Transformer
Digest 26	. Having a plural-layer insulation system
Digest 27	.. Including a semiconductive layer
Digest 28	... Plural semiconductive layers
Digest 29	. Having a semiconductive layer
Digest 30	. Having insulation with a particular dimension or geometry
Digest 31	. Having a shield or metallic layer
Digest 32	. Having means for cooling
Digest 33	. Method of cable manufacture, assembly, repair, or splicing

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. 3

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

COPY MAILED

MAR 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Jyi-Chang Tsai et al :
Application No. 10/073,901 :
Filed: February 14, 2002 :
Attorney Docket No. HSIE3024/EM :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed February 5, 2004, to change the order of the names of the inventors and to correct the spelling of one of the named inventors.

The petition is granted.

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

1. Jyi-Chang Tsai

2. Chaur-Heh Hsieh

The name of one of the named inventors will be changed from "Chao-Ho Hsieh" to Chaur-Heh Hsieh.

A corrected filing receipt is enclosed.

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 2613 for examination in due course.

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

Enclosure: Corrected Filing Receipt

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,715,347	2004-04-06	10/073,915	2002-03-28	PAT 3827A-2

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	/Anne Kinsman/	Date (YYYY-MM-DD)	2008-05-15
Name	Anne Kinsman	Registration Number	45291

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6715347
Issue Date: April 6,2004
Application No. 10073915
Filed: March 28,2002
Attorney Docket No. 2002.084 EXP

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

This is a decision on the electronic petition, filed May 15,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 15,2008 . 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

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

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

Mail Date: 05/20/2010

Applicant	: Bharat Tarachand Doshi	: DECISION ON REQUEST FOR
Patent Number	: 7620273	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/073,931	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/14/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVIDSON BERQUIST JACKSON & GOWDEY LLP
4300 WILSON BLVD., 7TH FLOOR
ARLINGTON VA 22203

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OFFICE OF PETITIONS

In re Application of	:	
Seed et al.	:	
Application No. 10/073,938	:	DECISION GRANTING PETITION
Filed: February 14, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 2615-0040	:	

This is a decision on the petition, filed August 29, 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**.

The USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of January 12, 2006, was previously mailed on September 30, 2005.

This matter is being referred to Technology Center 2100 for further examination on the merits.

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

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Robert S. Swecker
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria VA 22313-1404

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JUN 2 8 2002

OFFICE OF PETITIONS

In re Application of
Eschermann, et al.
Application No. 10/073,954
Filed: February 14, 2002
Attorney Docket No. 004501-637
For: PREPROCESSOR FOR A PREDETERMINED DOCUMENT TYPE DEFINITION, SYSTEM FOR PROCESSING MARKUP LANGUAGE DOCUMENTS, AND METHOD AND COMPUTER PROGRAM PRODUCT FOR THIS PURPOSE

DECISION GRANTING PETITION

This is a decision on the petition entitled, "PETITION UNDER 37 CFR 1.182 FOR ESTABLISHMENT OF APPLICATION FILING DATE IN RESPONSE TO NOTICE OF INCOMPLETE APPLICATION", filed March 25, 2002, in effect, withdrawal of the Notice of Incomplete Nonprovisional Application, mailed September 25, 2001 and accordation of a February 14, 2002 filing date to the above-identified application. The petition will be treated under 37 CFR 1.53(e)..

The application was deposited on February 14, 2002. On March 12, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that no filing date had been accorded to the application papers deposited on February 14, 2002 because no drawing was present, as is required by 35 USC 113.

In response to the Notice, petitioners timely filed the present petition and one sheet of drawing.

It is noted that the above-identified application contains method claims. As stated in MPEP 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence.)

MPEP 601.01(f) also states that:

> A non provisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figures in the specification, but filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description.

Therefore, the above-identified application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g).

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

In view of the above, the "Notice" mailed March 12, 2002 was mailed in error and is hereby withdrawn. The petition is **granted**.

The application is entitled to a filing date of February 14, 2002, regardless of whether petitioners establish a sheet of drawings was filed on February 14, 2002. As it turns out, petitioners have shown that 1 sheet of drawings was filed on February 14, 2002.

Petitioners have provided a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing February 14, 2002 as the date of receipt of the application papers. The postcard lists, *inter alia*, that the filing included 1 sheet of drawings.

The return postcard constitutes *prima facie* evidence that 1 sheet of drawings was filed on February 14, 2002. MPEP 503. Accordingly, the request is granted.

No fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **February 14, 2002**, using the copy of the 1 sheet of drawings submitted with the instant petition. Office records will be corrected to show that 1 sheet of drawing was present on filing.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Paper No. 8

Applicant : Huang, Norden
Appl No.: 10/073,957
Filed: February 13, 2002

DECISION GRANTING PETITION UNDER *37 CFR 1.84*

This decision is in response to the petition filed February 13, 2002 in the above-identified application. Petitioner requests that color drawings be accepted in accordance with 37 C.F.R. 1.84(a)(2).

The petition states that color drawings of Figures 6(a)-6(c), 29, 33, 38, 47(a), 47(b), 48(a), 48(b), 49(a), 49(b), 50, 51(a), 51(b), 52(a), 52(b), 53(a), 53(b), 54(a), 54(b), 58(a), 58(b), 59(b), and 62(a)-(c) are necessary in order to completely and accurately represent the invention.

The petition complies with 37 C.F.R. 1.84(a)(2) in that it was accompanied by (1) the appropriate fee and (2) three sets of color drawings. The specification further includes the required text language set forth in 37 C.F.R. 1.84 (a)(2)(iii).

The papers filed on February 13, 2002 fulfill the requirements set forth in 37 C.F.R. 1.84(a)(2) and the petition is GRANTED.

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

NASA GODDARD SPACE FLIGHT CENTER
OFFICE OF PATENT COUNSEL
MAIL CODE 503
GREENBELT MD 20771

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YOUNG & THOMPSON
745 SOUTH 23RD STREET 2ND FLOOR
ARLINGTON, VA 22202

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OFFICE OF PETITIONS

In re Application of	:	
Blair et al.	:	
Application No. 10/073,966	:	DECISION GRANTING
Filed: February 14, 2002	:	PETITION
Attorney Docket No. 3005-1001-2	:	

This is a decision on the petition filed January 7, 2003, to establish that pages 5, 6 and 9 of the specification were part of the originally filed application.

On February 14, 2002, the application was filed.

On November 26, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of February 14, 2002, and advising applicants that pages 5, 6, and 9 of the specification appeared to have been omitted.

In response, the present petition was filed alleging that the missing pages were deposited on February 14, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "25 Pages specification w/17 claims" on February 14, 2002.[1] Petitioner has also submitted a copy of the missing documentation- pages 5, 6, and 9.

Upon review of the record, pages 5, 6, and 9, deposited on February 14, 2002, have not been located. However, the evidence is convincing that the application papers deposited on February 14, 2002, included pages 5, 6, and 9, and that the pages were subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of pages 5, 6, and 9 submitted with the petition will be used for examination purposes.

A refund of the petition fee will be scheduled.

The Notice mailed November 26, 2002, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of February 14, 2002, using the application papers filed on February 14, 2002, and the copy of pages 5, 6, and 9 of the specification filed on January 7, 2003.

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[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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

Vermette & Co.
200 Granville Street, Suite 230
Box 40 Granville Square
Vancouver BC V6C 1S4
CANADA

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OFFICE OF PETITIONS

In re Patent No. 6,808,692
Issue Date: October 26, 2004
Application No. 10/073,986
Filed: February 14, 2002
Attorney Docket No. 2296-100

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 24, 2009.

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

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

This patent 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 petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Michael M. Geoffrey 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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

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KEATING & BENNETT
SUITE 312
10400 EATON PLACE
FAIRFAX, VA 22030

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OFFICE OF PETITIONS

In re Application of	:	
Keiji Sakata	:	
Application No. 10/073,987	:	ON PETITION
Filed: February 14, 2002	:	
Attorney Docket No. 36856.622	:	

This is a decision on the petition under 37 CFR 1.313(b)(5), filed July 22, 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 July 12, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2832 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

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

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CROMPTON SEAGER & TUFTE LLC
1221 NICOLLET AVE
SUITE 800
MINNEAPOLIS MN 55403-2420

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OFFICE OF PETITIONS

In re Application	:	
Jacobsen, et al.	:	
Application No. 10/073,996	:	DECISION ON PATENT TERM
Filed: February 14, 2002	:	ADJUSTMENT
Attorney Docket No. 1001.1855103	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT", filed May 17, 2005, requesting correction of the patent term adjustment (PTA) from sixty-four (64) days to one hundred forty-six (146) 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 **one hundred forty-six (146) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 22, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is sixty-four (64) days. On May 17, 2005, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is one hundred forty-seven (146) days.

Applicants assert entitlement to a patent term adjustment of one hundred forty-seven (146) days on the basis that the PTO improperly assessed Applicants a delay of eighty-two (82) days for filing a terminal disclaimer on February 22, 2005, after Applicants had filed a response on December 2, 2004.

Applicants state that the patent issuing from the application is subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of sixty-four (64) days based on an adjustment for PTO delay of two hundred seventy-four (274) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicants' delays of thirty-seven (37) and ninety-one (91) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b) and eighty-two (82) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(8). The adjustment of 82 days is at issue.

On petition, petitioner has supplied a copy of an e-mail from the Examiner, dated February 18, 2005, requesting that an additional Terminal Disclaimer be filed. In view thereof, it is concluded that the Terminal Disclaimer filed February 22, 2005 was expressly requested by the Examiner. As such, no applicant delay should have been assessed.

Accordingly, the correct determination of PTA at the time of mailing of the Notice of Allowance is **one hundred forty-six (146) days** (274 days of PTO delay reduced by 128 (37+91) days of applicant delay).

The $200 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 50-0413, as authorized.

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[1] Applicants filed the application for patent term adjustment together with the filing of the issue fee.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/23/07

TO SPE OF : ART UNIT 2827

SUBJECT : Request for Certificate of Correction on Patent No.: 7177196

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

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

SPE

2827
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

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1010 North Central Avenue
Glendale, CA 91202

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MAR 16 2006

OFFICE OF PETITIONS

In re Application of: :
WONG, Jacob, Y. :
Application No.: 10/074,011 :
Filed: February 14, 2002 :
Atty's Docket No.: JCJYWSLPF :

DECISION ON PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed January 09, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice Of Allowance mailed September 21, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on December 21, 2005.

On January 09, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of payment of the issue and publication fees. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

The application is being referred to the Office Of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned.

Richard M. Ross
Attorney Advisor
(571) 272-3296

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Paper No. 13

Oblon, Spivak, McCelland,
Maier and Neustadt
1940 Duke Street
Alexandria, VA 22314

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kiyoshi Taniguchi, et al. :
Application No. 10/074,020 :
Filed: February 14, 2002 :
Attorney Docket No. 219501US0CONT :

This is a decision on the petition, filed October 17, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 7, 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) 306-3475.

The application is being forwarded to Technology Center AU 1625 for processing of the request for continued examination under 37 CFR 1.114

Marianne E. Morgan
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. The request and pertinent attachments should be addressed to **Box Issue Fee.** Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to request in writing that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

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SEP 9 2005

In re Application of	:	
Kiyoshi Taniguchi et al	:	NOTICE OF WITHDRAWAL
Serial No. 10/074,020	:	FROM ISSUE
Filed: February 14, 2002	:	UNDER 37 CFR 1.313(b)
For: PROPANOLAMINE DERIVATIVES	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

George C. Elliott

George C. Elliott, Director
Technology Center 1600

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

cc: Allowed Files
Drafting Branch

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STE. 1500
HOUSTON, TX 77056

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OFFICE OF PETITIONS

In re Application of
Fabrice Devaux, et al.
Application No. 10/074,023
Filed: February 14, 2002
Attorney Docket No. 20397.700

ON PETITION

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

The application became abandoned for failure to pay the issue fee on or before June 9, 2004. A Notice of Abandonment was mailed July 30, 2004. In response, on September 2, 2004, the requisite issue fee and the present petition were filed.

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

The petition is GRANTED.

The application is being referred to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (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 Pat nts
United Stat s Patent and Trad mark Office
Washington, D.C. 20231
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Paper No. 8

FITCH EVEN TABIN & FLANNERY
1801 K STREET NW, SUITE 401L
WASHINGTON DC 20006-1201

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JUL 2 2 2002

OFFICE OF PETITIONS

In re Application of	:
Stangel et al	:DECISION DISMISSING PETITION
Application No. 10/074,051	:FOR SUSPENSION OF RULE
Filed: March 14, 2002	:
Attorney Docket No. 7374/472586	:

This is a decision on the communication entitled "Non-Publication Request," filed on May 13, 2002, which is being treated as a petition requesting that the requirement of 37 CFR 1.213(a)(1) be waived or suspended pursuant to 37 CFR 1.183 in order to file a nonpublication request after the filing of the above-identified application. This is also in response to the communication filed March 14, 2002 and the "Supplemental Response to Notice to File Corrected Application Papers," filed May 13, 2002, which latter communication is being treated as a petition under 37 CFR 1.182 to accord a filing date of March 14, 2002, the date a complete set of application papers was presented to the USPTO.

The petition under 37 CFR 1.183 to accept a request for nonpublication after filing is dismissed.

The petition under 37 CFR 1.182 to accord the application a filing date of March 14, 2002 is **granted**.

PETITION UNDER 37 CFR 1.183

Turning first to the petition to waive the requirement of 37 CFR 1.213(a)(1), 37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be

suspended or waived by the Commissioner. 35 U.S.C. 122(b) requires the United States Patent and Trademark Office (USPTO) to publish utility and plant applications filed on or after November 29, 2000, unless applicant makes a nonpublication request upon filing. The requirement that a nonpublication request must be made upon filing of the application is set forth in the statute. See 35 U.S.C. 122(b)(2)(B)(i). Therefore, the USPTO does not have the authority to waive this requirement. Accordingly, the nonpublication request filed with the petition will not be recognized. The projected publication date of this application will be determined upon completion of the pre-examination processing of this application.

If applicant desires to avoid publication of the above-identified application, he may file a continuation application under 37 CFR 1.53(b) claiming benefit to the above-identified application under 35 U.S.C. § 120 with a nonpublication request and, thereafter, abandon the above-identified application by filing a petition under 37 CFR 1.138(c) for express abandonment to avoid publication, including a petition fee ($130.00). This petition should be mailed to Box PGPUB-ABD or fax to the Pre-Grant Publication Division at (703) 305-8568.

PETITION UNDER 37 CFR 1.182

This application was deposited on February 14, 2002. However, the USPTO mailed a Notice to File Corrected Application Papers" on March 12, 2002, requiring the submission of a substitute specification and stating that pages 9, 21 and 22 of the specification were missing.

In response to the statement in the Notice that pages 9, 21, and 22 were missing, petitioner, on March 14, 2002, submitted missing pages 9, 21 and 22 of the specification. The response of March 14, 2002 stated that, since the parent application was still pending, "entry of the enclosed duplicate pages will mean that this application is co-pending with the parent application as required by 35 U.S.C. § 120." In view of this statement, the communication is being treated as a petition under 37 CFR 1.182 to accept the later filing date of March 14, 2002.

Petitioner makes the assertion, in both the communication of March 14, 2002, and again in the May 13, 2002 communication, that the application was complete as filed. However, petitioner has not supplied any evidence in support thereof, i.e., stamped return postcard which acknowledges receipt by the USPTO of the number of pages of the specification submitted on the date of filing.

Therefore, since it appears that petitioner does not wish to, or cannot, present evidence in support of the receipt in the USPTO of the pages stated to be missing by the Notice of March 12, 2002, and since it appears that petitioner will accept the later filing date of March 14, 2002, as the date of filing of a complete application, this application will be accorded the later filing date of March 14, 2002 under the provisions of 37 CFR 1.182.[1]

In view of the treatment of this petition as one under the provisions of 37 CFR 1.182 for a later filing date, the $130 fee required therefor will be charged to Deposit Account No. 06-1135.

Receipt is acknowledged of the substitute specification on May 13, 2002, in response to the Notice of March 12, 2002.

Telephone inquiries regarding this communication should be directed to Frances Hicks at 703-305-8680.

This application is being forwarded to the Office of Initial Patent Examination Division for processing with a filing date of March 14, 2002 and for mailing of a corrected Filing Receipt, which will also include the projected publication date for this application.

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

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[1] A review of Office PALM computer database records indicate that Parent Application No. 09/391,377 is still pending. Therefore, even with the March 14, 2002 filing date, this application is copending with the parent application.

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Paper No. 50205

LOWE HAUPTMAN GILMAN & BERNER, LLP
1700 Diagonal Road, Suite 310
Alexandria, VA 22314

MAY 1 1 2005

In re Application of:
TSAI *et al.*
Serial No.: 10/074,052
Filed: February 14, 2002
Attorney Docket No.: **4425-248**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the communication filed January 25, 2005. The communication has been treated as a petition to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely pay the issue fee in response to a Notice of Allowance and Issue Fee Due. A Notice of Abandonment was mailed on January 03, 2005. The Notice of Abandonment is not clear as to which Notice of Allowance there was no response.

Petitioner asserts that a Notice of Allowance, which indicates the correct listing of the claims to be issued, has never been received. It is asserted that numerous attempts to get a corrected indication of the allowed claims have been made. Petitioner further asserts that additional attempts to contact the Office on, or after October 07, 2004, to discuss the allowed claims were unsuccessful. It is further asserted that the application should not be abandoned since the issue fee was previously paid on December 22, 2003.

A review of the file wrapper reveals that a Notice of Allowability mailed on July 07, 2004, indicated that claims 1-12 were allowed. A letter was filed on July 16, 2004, questioning the indication of allowed claims and indicating that a preliminary amendment had been filed which canceled those claims. The letter further indicated that claims 20-42 were pending in the application file. In response, another Notice of Allowability was mailed on October 07, 2004, indicated that claims 21-39 were allowed; however, a new Notice of Allowance was not mailed, and the period for response was not restarted.

As a result, a clear indication of the allowed claims of the application was never conveyed to the applicant.

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.

Petitioner is reminded that even if the issue fee has been previously paid, and the Notice of Allowance and Issue Fee Due indicates that no fee is due, a response, including page 2 of the form, must be filed to avoid abandonment of the application.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Notice of Allowability and a Notice of Allowance and Issue Fee Due. The statutory period for response set therein will be reset to run from the date the Notices are re-mailed. Extensions of time for these periods are not available. See 37 C.F.R. § 1.136(c), effective November 07, 2000.

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

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

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12390 EL CAMINO REAL
SAN DIEGO CA 92130-2081

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of
Vecchio
Application No. 10/074,057
Filed: February 11, 2002
Attorney Docket No. 15670-032002
For: PROCESS FOR MAKING METALLIC/INTERMETALLIC COMPOSITE LAMINATE MATERIALS, AND MATERIALS SO PRODUCED ESPECIALLY FOR USE IN LIGHTWEIGHT ARMOR

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on September 2, 2004 (certificate of mailing date August 27, 2004) to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the November 1, 2002 non-final Office action which set an extendable three (3) month period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on February 2, 2003. A Notice of Abandonment was mailed on August 21, 2003.

Applicant has submitted an amendment in reply to the November 1, 2002 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the November 1, 2002 non-final Office action, and the petition fee.[1]

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center Art Unit 3641's technical support staff for processing of the amendment filed on September 2, 2004 (certificate of mailing date August 27, 2004).

---

[1]The statement of unintentional delay presented in the petition does not comply with the current rule. 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

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

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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OFFICE OF PETITIONS

In re Application of	:	
Chockalingam et al	:	
Application No. 10/074,060	:	DECISION ON PETITION
Filed: February 11, 2002	:	
Attorney Docket No. PA619C1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 30, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed January 31, 2007. Accordingly, the date of abandonment of this application is February 1, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks

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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Alfred D. Lobo, Esq.,
LOBO & CO., L.P.A.
933 The Leader Bulding
526 Superior Avenue
Cleveland, OH 44114-1401

Mail Date: 04/21/2010

Applicant	: Rajesh Kumar Varma	: DECISION ON REQUEST FOR
Patent Number	: 7056971	: RECALCULATION of PATENT
Issue Date	: 06/06/2006	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/074,070	: OF WYETH
Filed	: 02/12/2002	:
		:

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070402

DATE : April 2, 2007

TO SPE OF : ART UNIT 1731

SUBJECT : Request for Certificate of Correction on Patent No.: 6749799

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

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

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: Christopher A. Fiorilla **Art Unit** 1734

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RANDI L. DULANEY
MOTOROLA, INC.
LAW DEPARTMENT
8000 WEST SUNRISE BOULEVARD
FORT LAUDERDALE, FL 33322

COPY MAILED

JAN 23 2008

OFFICE OF PETITIONS

In re Application of
David J. Hayes, et al.
Application No. 10/074,131
Filed: February 12, 2002
Attorney Docket No. PT03772U

ON PETITION

This is a decision in response to the petition, filed September 14, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed January 11, 2007. A Notice of Abandonment was mailed on September 7, 2007. In response, on September 14, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2623 for consideration of the amendment filed September 14, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MOTOROLA, INC.
LAW DEPARTMENT
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FORT LAUDERDALE, FL 33322

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JAN 14 2009

OFFICE OF PETITIONS

In re Application of :
David Jeffery Hayes, et al. :
Application No. 10/074,131 :
Filed: February 12, 2002 :
Attorney Docket No. PT03772U :

ON PETITION

This is a decision in response to the petition under 37 CFR 1.137(b), filed October 6, 2008, 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 of February 22, 2008. A Notice of Abandonment was mailed on September 18, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) , including the fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This application is being referred to Technology Center AU 2623 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: HISASHI D. WATANABE
MOTOROLA, INC.
LAW DEPARTMENT
600 NORTH US HIGHWAY 45
LIBERTYVILLE, IL 60048

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of	:	
Ansell et al.	:	
Application No. 10/074,132	:	ON PETITION
Filed: February 12, 2002	:	
Attorney Docket No. VTN0577	:	

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

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 1700 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) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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SCHIFF HARDIN LLP
PATENT DEPARTMENT
6600 SEARS TOWER
233 SOUTH WACKER DRIVE
CHICAGO, IL 60606-6473

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MAR 26 2007

OFFICE OF PETITIONS

In re Application of :
Herbert Bruder et al :
Application No. 10/074,145 : DECISION ON PETITION
Filed: February 12, 2002 :
Attorney Docket No. P02,0056 :

This is a decision on the communication, filed February 5, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting that this application not be deemed to be abandoned.

The petition is **GRANTED**.

The issue and publication fees in this application were not paid on or before April 4, 2006, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed January 4, 2006.

Petitioner asserts that the Notice dated January 4, 2006 was not received.

A review of the written record indicates that the Notice dated January 4, 2006 was returned to the Office as undeliverable because of an insufficient address. However, it appears that the address may not have appeared in the window of the envelope, since the address on the Notice is the address of record. Therefore, as it is clear that the Notice of January 4, 2006 was not received by petitioner, it would be appropriate to **not** hold this application abandoned. Accordingly, this application will not be held abandoned for failure to timely pay the issue and publication fees on or before April 4, 2006.

As the issue and publication fees have been paid, it is unnecessary here to re-mail the returned Notices of January 4, 2006. Accordingly, this application is being referred to Publishing Division for appropriate processing into a patent in accordance with this decision on petition.

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

PILLSBURY WINTHROP
SUITE 1800
101 W. BROADWAY
SAN DIEGO, CA 92101

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MAY 1 4 2002

OFFICE OF PETITIONS

In re Application of	:	
Bhushan Patwardhan et al	:	DECISION GRANTING
Application No. 10/074,146	:	PETITION
Filed: February 11, 2002	:	
Attorney Docket No. 059012/0282083	:	

This is a decision on the petition under 37 CFR 1.10(c) filed on March 18, 2002, requesting that the above-identified application be accorded a filing date of February 11, 2001, rather than the presently accorded filing date of January 11, 2002.

Applicants allege that the application was deposited in "Express Mail" service with the U.S. Postal Service, on February 11, 2002. In support, applicants provided a copy of the Express Mail label, receipt no. EL754073610US, showing a Date-In of February 11, 2002. The same Express Mail receipt number was referred to in the copy of the original application transmittal letter submitted with the instant petition. Applicants request that the application be accorded a filing date of February 11, 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 11, 2002.

The petition is granted.

No petition fee is required and none has been charged.

The application is being returned to Initial Patent Examination Division to await applicants' response to the Notice mailed April 10, 2002, and for correction of the filing date to February 11, 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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

7/20/2010

Patent No. :7373253
Inventor(s) :EYRE
Issued :5/13/2008
Title :Multi-Test Analysis of Real-Time Nucleic Acid Ampliification
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals item [*] notice is printed in accordance with the record by the SPE.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

ERIC E. WILLIAMS, BARNES & THORNBURG LLP
11 South Meridan Street
Indianapolis, IN 46204

HR

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100708

DATE : July 27, 2010

TO SPE OF : ART UNIT 1631

SUBJECT : Request for Certificate of Correction on Patent No.: 7,373,253

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 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 issue notification mailed 4/23/2008 indicates that the patent term extension is 23 days. The front page of the patent, in the setction maked (*) Notice, indicates that the patent term is adjusted by 23 days. Applicant has not filed any information or other eidence that this extension of term is incorrect, therefore the issued patent does not seem to be in error.

/Marjorie Moran/
SPE. Art Unit 1631

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Timothy W. Markison
P.O. Box 160727
Austin TX 78716-0727

NOV - 6 2007

In re Application of:
Harry Contopanagos et al.
Serial No.: 10/074,293
Filed: February 12, 2002
Attorney Docket No.: BP 2108

DECISION ON PETITION

This is a decision on the petition entitled "PETITION PURSUANT TO 37 CFR 1.144 and/or 1.181 TO WITHDRAW NOTICE OF ABANDONMENT" filed on January 13, 2005. There is no fee for this petition.

The petition is **DISMISSED**.

On August 13, 2002, a restriction requirement between two inventions was mailed to applicant. Applicant responded by facsimile transmission on June 2, 2003. As indicated by the Certificate of Mailing on the response, the facsimile transmission was apparently a copy of the response that was mailed to the Office on September 13, 2002. Although there was no statement under 37 C.F.R. § 1.8(b)(3), the response of June 2, 2003 was accepted by examiner. The response elected with traverse Group I, claims 1-15.

On June 27, 2003, the examiner sent another restriction requirement requiring an election between 8 species identifying the different species by reference to different figures of the drawings. On October 2, 2003, applicant timely responded to the restriction requirement by merely reaffirming the election of claims 1-15. On December 31, 2003, a letter was mailed to applicant indicating that the response of October 2, 2003 was not fully responsive to the restriction requirement of June 27, 2003 since applicant failed to elect a species to be examined.

On March 8, 2004, applicant timely responded to the letter by contending that the restriction requirement between species was inappropriate and again did not make an election between the given species. On April 9, 2004, examiner sent another letter indicating that the response of March 8, 2004 was not fully responsive to the prior Office Action since applicant failed to elect a species to be examined. In this letter, examiner gave a listing of the claims readable on the respective species. The letter stated that since the response did not appear to be a bona fide attempt to further prosecution, the period for response continued to run from the mailing date of the previous letter, i.e., December 31, 2003.

On July 2, 2004, applicant filed a timely reply to the letter of April 9, 2004. The reply was timely due to the 2 month extension of time filed with the response of March 8, 2004 and the

3 month extension of time and Certificate of Mailing dated June 28, 2004 filed with the reply of July 2, 2004. Again, the applicant indicated his disagreement with the restriction requirement but failed to elect.

On November 18, 2004, a Notice of Abandonment was mailed to applicant indicating the application was abandoned in view of applicant's failure to timely file a proper reply to the Office letter mailed on October 2, 2003. It further stated that applicant's replies filed on 03/08/04 and 07/02/04 were not proper replies because applicant did not provisionally elect a single disclosed species and as noted in 37 CFR 1.143, a provisional election must be made even though the requirement is traversed (see MPEP 818.03(b)).

Although the Notice of Abandonment listed the wrong date of the Office letter to which applicant failed to timely file a proper reply, the rest of the Notice of Abandonment was correct. When applicant was sent the restriction requirement on June 27, 2003, it was incumbent on the part of the applicant to elect a species even though he did not agree with the restriction requirement. It was irrelevant that the examiner did not list the claims readable on the respective species (as later done in the letter of April 9, 2004). Applicant still could have and was required to elect one of the 8 species listed in the Office action of June 27, 2003.

When applicant failed to make an election after several opportunities to do so, the application was correctly abandoned. Petitioner has presented no argument as to why he believes the holding of abandonment to be in error except to state that the holding should be withdrawn since the patent application became abandoned due to the inappropriate species election requirement. However, it is not germane to the holding of abandonment whether or not the restriction requirement was appropriate or proper. As indicated earlier, 37 C.F.R 1.143 and MPEP 818.03(b) both note that a provisional election to a restriction requirement must be made even though the requirement is traversed.

Accordingly, the petition to withdraw the holding of abandonment is dismissed and the application remains in abandoned status. At this time, the arguments presented as to the propriety of the restriction requirement will not be considered since the application is abandoned and no election was made during the pendency of the application.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Timothy W. Markison
P.O. Box 160727
Austin TX 78716-0727

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In re Application of	:	
Harry Contopanagos, et al.	:	
Application No. 10/074,293	:	ON PETITION
Filed: February 12, 2002	:	
Attorney Docket No. BP 2108	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Office Letter, mailed December 31, 2003, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A two (2) month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 31, 2004. The Notice of Abandonment was mailed November 18, 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/election; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to Technology Center AU 2826 for appropriate action on the concurrently filed amendment/election.

Chris Bottorff
Petitions Examiner
Office of Petitions

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Robert A Muha Esquire
Kirkpatrick & Lockhart LLP
Henry W Oliver Building
535 Smithfield Street
Pittsburgh PA 15222-2312

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MAY 24 2010

OFFICE OF PETITIONS

In re Patent of Kanade, et al.
Patent No. 7,102,666
Issued: September 5, 2006
Application No: 10/074,315
Filed: February 12, 2002
Attorney Docket No. 010130

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed February 23, 2010.

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) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

In re Application of

DIAZ, Armando M. et al.
Application No. 10/074,319
Filed: February 12, 2002
Attorney Docket No. **F-8460**

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 March 05, 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 Laurence A. Greenberg on behalf of all attorneys of record who are associated with customer No. 24131. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed December 13, 2006 that requires a reply from the applicant.]

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **ARMANDO M. DIAZ**
9741 S.W. 158TH STREET
MIAMI, FLORIDA 33157

cc: **JOSE DIAZ**
20431 N.E. 22ND PLACE
NORTH MIAMI BEACH, FLORIDA 33180

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/074,319	02/12/2002	Armando M. Diaz	F-8460

CONFIRMATION NO. 6422

OC000000023581867

24131
LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

Date Mailed: 04/27/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/05/2007.

- 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.

Michelle R. Eason

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

FORMER ATTORNEY/AGENT COPY

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Law Office of Ray R. Regan, P.A.
P.O. Box 1442
Corrales, NM 87048

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OFFICE OF PETITIONS

In re Application of
Robert Aranda Jr.
Application No. 10/074,334
Filed: February 12, 2002
Attorney Docket No. 2215.004

DECISION ON PETITION

This is a decision on the petition under 37 CFR under 1.181, filed May 10, 206, requesting that the Office withdrawal the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the nonfinal Office action mailed on April 21, 2005. A Notice of Abandonment was mailed on May 2, 2006. Petitioner asserts that petitioner filed a timely and proper response to the nonfinal Office action, accompanied by a request for an extension of time for response within the third month and the requisite fee on October 19, 2005.

Upon a review of the record, it appears that the application number in the heading of the response and the request for an extension of time identified application No. "10/974,334" rather than the intended application No. "10/074,334." The response and the request for an extension of time were located in the file of application No. 10/974,334. A review of the correspondence indicates that the USPTO received the response and the request for extension of time on October 19, 2005, but they were not matched with the file due to the incorrect application number.

Under current Office procedure, if a response having an incorrect application number contains sufficient information to identify the correct application and was timely received in 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 petition is **granted**. The Notice of Abandonment is hereby withdrawn and the application is returned to pending status.

The matter is being referred to Technology Center Art Unit 2141.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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CHARLES W. GRAY
TWO EMBACADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

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JUL 22 2008

In re Application of	:	
Jorge Cantu BONILLA, et al	:	
Application No. 10/074,378	:	DECISION ON PETITION
Filed: February 11, 2002	:	TO WITHDRAW
Attorney Docket No. 020328-000110US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed June 30, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Charles W. Gray does 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: TOWNSEND AND TOWNSEND
AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,379	02/12/2002	Charles E. Taylor	SHPR-01028US6 SRM	5582

23910 7590 06/15/2005

FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO, CA 94111

EXAMINER
MCDONALD, RODNEY GLENN

ART UNIT	PAPER NUMBER
1753	

DATE MAILED: 06/15/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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6/14/05

In re Application of	:	
Charles E. Taylor	:	NOTICE OF WITHDRAWAL
Serial No. 10/074,379	:	FROM ISSUE
Filed: February 12, 2002	:	UNDER 37 CFR 1.313(b)
For: ELECTRO-KINETIC AIR TRANSPORTER	:	
AND CONDITIONER DEVICE MICRO-	:	
ORGANISM CAPABILITY	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313 (b).

The above-identified application is hereby withdrawn from issue.

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

Telephone inquiries should be directed to at Nam Nguyen (571) 272-1342.

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

Fliesler Meyer, LLP
Four Embarcadero Center
Suite 400
San Francisco, CA 94111

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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OFFICE OF PETITIONS

TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON TX 77057-2631

In re Application of	:	
Barry S. McAuliffe et al.	:	
Application No. 10/074,386	:	ON PETITION
Filed: February 12, 2002	:	
Attorney Docket No. BLU.0002US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 25, 2009, 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 of November 3, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time were obtained. Accordingly, the date of abandonment of this application is February 4, 2009. A Notice of Abandonment was mailed on June 26, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination), with the required fee of $405, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that

such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

This application is being referred to Technology Center AU 3622 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Ashley M. Chuang
Wilson, Sonsini, Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304

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1616 S. VOSS ROAD, SUITE 750
HOUSTON TX 77057-2631

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MAY 10 2010

OFFICE OF PETITIONS

In re Application of

Barry S. McAuliffe et al.
Application No. 10/074,386
Filed: February 12, 2002
Attorney Docket No. **BLU.0002US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed February 15, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Diana M. Sangalli does not have power of attorney or was ever given power of attorney in this patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the address of record until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOUSTON TX 77057-2631

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MAY 24 2010

OFFICE OF PETITIONS

In re Application of

Barry S. McAuliffe et al.
Application No. 10/074,386
Filed: February 12, 2002
Attorney Docket No. **BLU.0002US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed May 14, 2010.

The request is **NOT APPROVED**.

The request still cannot be approved because it lacks the name of the first inventor or the assignee of record that is associated with the address listed in the request. Therefore, the change of correspondence address is considered improper.

As stated in the previous decision mailed May 10, 2010, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/08/05

TO SPE OF : ART UNIT 2631

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/074398** Patent No.: **6748008**

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.

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

Comments: The corrections are necessary for correcting typographic errors.

SPE

2611
Art Unit

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PHILIP M. WEISS, ESQ.
WEISS & WEISS
SUITE 251
300 OLD COUNTRY ROAD
MINEOLA NY 11501

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APR 1 2 2007

OFFICE OF PETITIONS

In re Application of
Robert E. Mccoy
Application No. 10/074,400
Filed: February 12, 20002
Attorney Docket No.: **P/79-3**

ON PETITION

This is a decision on the petition filed March 20, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed September 10, 2004. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned December 13, 2004. Accordingly, a Notice of Abandonment was mailed on December 13, 2006.

This matter is being referred to Technology Center 2618 for appropriate action on the amendment filed March 20, 2007.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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GEZA C. ZIEGLER, JR.
PERMAN & GREEN, LLP
425 POST ROAD
FAIRFIELD CT 06430

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OFFICE OF PETITIONS

In re Application of	:	
Roger Eastvold	:	
Application Number: 10/074411	:	DECISION ON PETITION
Filing Date: 02/12/2002	:	
Attorney Docket Number:	:	
390P010777-US (PAR)	:	

This is a decision on the petition filed on November 1, 2007, under 37 CFR 1.137(b),[2] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on June 30, 2007, for failure to file a timely and proper reply to the final Office action mailed on March 29, 2007, 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.

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional 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)).

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

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,443	02/13/2002	Zhao-Cheng Chen		7796

7590 07/27/2004

Zhao-Cheng Chen
235 Chung-Ho
Box 8-24
Taipei,
TAIWAN

EXAMINER
SAWHNEY, HARGOBIND S

ART UNIT	PAPER NUMBER
2875	

DATE MAILED: 07/27/2004

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

JUL 27 2004

Zhao-Cheng Chen
235 Chung-Ho
Box 8-24
Taipei TW TAIWAN

In re Application of: Zhao-Cheng Chen Serial No.: 10/074,443 Filed: February 13, 2002 For: LAMP HEAD WITH MULTIPLE LUMINOUS MODES	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed November 11, 2003 and resubmitted on April 12, 2004, 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 19, 2003. A Notice of Abandonment was mailed on October 21, 2003.

Petitioner asserts that on June 18, 2003, a response including an amendment was timely filed in the above-identified application. To support this assertion, petitioner has submitted a copy of the response.

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 June 18, 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.

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVLAND, OH 44114-3108

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OFFICE OF PETITIONS

In re Application of	:	
Edward T. Lebreton et al.	:	
Application No. 10/074,449	:	DECISION ON PETITION
Filed: February 13, 2002	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 32285	:	

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed July 20, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on February 13, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/271,289, which was filed on February 23, 2001, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. See In re deSeversky, supra. Note also MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

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

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

[1] Note 37 CFR 1.121

By hand: Customer Window located at:

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

By fax: (703) 872-9306[2]
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Irvin Dingle at (703) 306-5684.[3]

Frances Hicks

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

---

[2] Effective approximately September 27, 2004, the facsimile number will be 571-273-0025, which is when the Office of Petitions expects to move to the new quarters in Alexandria, Virginia. However, this number is not to be used for submitting formal papers, but merely is to be used for receiving courtesy and informal papers and petitions to withdraw from issue only. Courtesy and informal papers will not be made a part of the file record.

[3] Effective September 27, 2004, the phone number will be 571-272-3210.

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ROBERT F. BODI
PEARNE & GORDON, LLP
1801 EAST 9TH STREET, STE. 1200
CLEVELAND, OH 44114-3108

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OCT 07 2004

OFFICE OF PETITIONS

In re Application of
Edward T. Lebreton et al
Application No. 10/074,449
Filed: February 13, 2002
Attorney Docket No. 32285

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed August 26, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on February 13, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/271,289, which was filed on February 23, 2001, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii).

Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/271,289 is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred forwarded to Technology Center AU 1732.

Frances Hicks

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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HARRY K. AHN, ESQ.
REED SMITH, LLP
599 LEXINGTON AVE., FL 29
NEW YORK, NY 10022

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JAN 31 2007

OFFICE OF PETITIONS

In re Application of	:	
Jongho Lee	:	
Application No. 10/074,450	:	ON PETITION
Filed: February 11, 2002	:	
Attorney Docket No. 2101	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 22, 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 March 11, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 12, 2005.

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

This matter is being forwarded to Technology Center AU 3621 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/074,450	02/11/2002	Jongho Lee	2101

CONFIRMATION NO. 8940

OC000000022247002

OC000000022247002

Harry K. Ahn, Esq.
Reed Smith, LLP
599 Lexington Ave., FL 29
New York, NY 10022

Date Mailed: 01/31/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/22/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

IRVIN DINGLE
OP (571) 272-3210

ATTORNEY/APPLICANT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/074,450	02/11/2002	Jongho Lee	2101

CONFIRMATION NO. 8940

OC000000022246921

OC000000022246921

Chung K. Ko
4677 Old Ironside Dr. #260
Santa Clara, CA 95054

Date Mailed: 01/31/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/22/2006.

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

IRVIN DINGLE
OP (571) 272-3210

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HARRY AHN, ESQ.
ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK, NY 10017-5621

COPY MAILED
NOV 06 2008

In re Application of	:	
JonGho Lee	:	
Application No. 10/074,450	:	DECISION ON PETITION
Filed: February 11, 2002	:	TO WITHDRAW
Attorney Docket No. 309,434	:	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 29, 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 Harry K. Ahn 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.

All future correspondence will be directed to the first named inventor JonGho Lee at the address indicated below.

The application became abandoned for failure to timely reply to the outstanding Office action mailed November 16, 2007.

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

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

cc: JONGHO LEE
3RD FLOOR
39-22 SAMSUNG-DONG, KANGNAM-KU
SEOUL, KOREA

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
10/074,450	02/11/2002	Jongho Lee	309,434

CONFIRMATION NO. 8940

POWER OF ATTORNEY NOTICE

Harry Ahn, Esq.
Abelman, Frayne & Schwab
666 Third Avenue, 10th Fl.
New York, NY 10017-5621

OC000000032919698

Date Mailed: 11/03/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/29/2008.

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

/amwise/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INTEL/BSTZ
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, L.L.P.
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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SEP 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Andersen et al.	:	
Application No. 10/074,484	:	DECISION ON PETITION
Filed: February 11, 2002	:	
Attorney Docket No. 042390.P12916	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 8, 2008, 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 of May 3, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 4, 2007. A Notice of Abandonment was mailed March 17, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 2623 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CONFIRMATION NO. 6712

SERIAL NUMBER	FILING or 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
10/074,522	02/14/2002 **RULE**	428	1615	SPG6594PDUS

APPLICANTS

Susanne H. Goodson, Warrington, PA;
Klein A. Rodrigues, Signal Mountain, TN;

**** CONTINUING DATA ***************************

**** FOREIGN APPLICATIONS ***************************

**** IF REQUIRED, FOREIGN FILING LICENSE GRANTED ****

03/08/2002

Foreign Priority claimed	☐ Yes ☑ No		STATE OR COUNTRY	SHEETS DRAWINGS	TOTAL CLAIMS	INDEPENDENT CLAIMS
35 USC 119(a-d) conditions met	☐ Yes ☑ No	☐ Met after Allowance	PA	0	~~21~~ 8	1
Verified and Acknowledged	/HUMERA N SHEIKH/ Examiner's Signature	Initials				

ADDRESS

AKZO NOBEL INC.
LEGAL & IP
120 WHITE PLAINS ROAD, SUITE 300
TARRYTOWN, NY 10591
UNITED STATES

TITLE

Controlled release materials

FILING FEE RECEIVED		
758	FEES: Authority has been given in Paper No._____ to charge/credit DEPOSIT ACCOUNT No._____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DORSEY & WHITNEY LLP-DENVER
370 SEVENTEENTH STREET
SUITE 4700
DENVER CO 80202-5647

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JUN 0 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Kevin M. Liga, et al.	:	
Application No. 10/074,530	:	DECISION ON PETITION
Filed: February 11, 2002	:	TO WITHDRAW
Attorney Docket No. 11150.00	:	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

cc: ADAM KESER
MORISON & FOESTER, LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102

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

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/074,535	**16-Dec-02**	**WILLIAM F. NORDLIN, ET AL.**	**913/38954/283**

Title: HYDRAULIC PUNCH DRIVER

Art Unit	Paper Number

Correspondence Address:
JAMES A. O'MALLEY
TREXLER BUSHNELL GIANGIORGI BLACKSTONE & MARR, LTD
105 W. ADAMS STREET, STE. 3600
CHICAGO IL 60603-6299

PATENT & TRADEMARK OFFICE
MAILED

JUN 23 2003

LICENSING & REVIEW

Please find attached a communication from the Examiner regarding the Petition for Retroactive License under 37 CFR 5.25.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

James A. O'Malley
TREXLER, BUSHNELL, GIANGIORGI,
BLACKSTONE & MARR, LTD.
105 W. Adams Street, 36th Floor
Chicago, IL 60603

In re:	Nordin et al	:	DECISION ON REQUEST
Serial No.:	10/074,535	:	UNDER 37 CFR 5.25
Filing date:	13 November 2001		
Docket No:	913/38954/283		

Title: HYDRAULIC PUNCH DRIVER

This is a decision on the petition filed on 16 December 2002 for a retroactive foreign filing license.

37 CFR 5.25(a) requires the following:

1. A listing of each of the foreign countries in which the unlicensed patent application material was filed,
2. The dates on which the material was filed in each country,
3. A verified statement (oath or declaration) containing:
   i. An averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order,
   ii. A showing that the license has been diligently sought after discovery of the proscribed foreign filing, and
   iii. An explanation of why the material was filed abroad through error and without deceptive intent without the required license under § 5.11 first having been obtained, and
4. The required fee (§ 1.17(h)).

The petition is **Denied** at this time in that the petition is defective since a copy of the German Patent application has not been provided for the record to show that the U.S. Patent application and the German Patent applications contain the same inventive subject matter.

Accordingly, the provisions of 37 CFR 5.25 not having been fully met, the petition is denied, and in the absence of any response within **60 days** of the mailing date of this letter, such denial will

be made final and the final action under 35 U.S.C. 185 will be taken. Extensions of time may be had under 37 C.F.R. 1.136(a).

Andrea M. Valenti
Patent Examiner
Group 3643
(703) 305-3010

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,667,872	2003-12-23	10/074,590	2002-02-11	MICP0131USA

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	/WINSTON HSU/	Date (YYYY-MM-DD)	2009-03-04
Name	Winston Hsu	Registration Number	41526

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. 6667872
Issue Date: December 23,2003
Application No. 10074590
Filed: February 11,2002
Attorney Docket No. JCLA4560

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

This is a decision on the electronic petition, filed March 4,2009 ,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 4,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BARNES & THORNBURG
P.O. BOX 2786
CHICAGO, IL 60690-2786

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AUG 23 2005
OFFICE OF PETITIONS

In re Application of :
Brad E. Hossler :
Application No. 10/074,599 :
Filed: February 13, 2002 : ON PETITION
For: :
ROPE LOCKING DEVICE WITH :
AUTOMATIC SAFETY MECHANISM :

This is a decision on the Petition to Correct Assignee Data in the Issue Fee Transmittal Pursuant to 37 C.F.R. 1.182, filed July 20, 2005, to correct the name of the assignee in the above-identified patent. The petition is properly treated as a request under 37 CFR 3.81(b)[1].

The request is **dismissed**.

Petitioner states that the correct assignee of the above-identified patent is Tiffin Scenic Studios, Inc. Petitioner provides that the PTOL-85 only listed the name of assignee as Tiffin Scenic Design, Inc. As such, Petitioner requests correction of the name of the assignee. The petition is not accompanied by a request for a certificate of correction (and fee).

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). As petitioner has failed to comply with the provisions of 37 CFR 3.81(a), the request cannot be granted.

A review of Office database assignment records reflects that an assignment to Tiffin Scenic Studios, Inc., has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that Tiffin Scenic Studios, Inc., was the assignee of record at the time of issuance of the instant application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth Telcordia Technologies, Inc., and Toshiba America Research, Inc., as the assignees**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

After the submission by petitioner of the request for a certificate of correction to correct the assignee data on the front page of the Letters Patent, any questions pertinent thereto should be directed to the Certificates of Correction Branch at (703) 305-8309.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BARNES & THORNBURG
P.O. BOX 2786
CHICAGO, IL 60690-2786

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OCT 13 2005

OFFICE OF PETITIONS

In re Application of :
Brad E. Hossler :
Application No. 10/074,599 :
Filed: February 13, 2002 :
Patent No. 6,948,594 :
Issued: September 27, 2005 :
For: :
ROPE LOCKING DEVICE WITH :
AUTOMATIC SAFETY MECHANISM :

CORRECTED
DECISION ON PETITION

This is a decision on the Petition to Correct Assignee Data in the Issue Fee Transmittal Pursuant to 37 C.F.R. 1.182, filed July 20, 2004, to correct the name of the assignee in the above-identified patent. The petition is properly treated as a request under 37 CFR 3.81(b)[1].

The request is **dismissed**.

Petitioner states that the correct assignee of the above-identified patent is Tiffin Scenic Studios, Inc. Petitioner provides that the PTOL-85 only listed the name of assignee as Tiffin Scenic Design, Inc. As such, Petitioner requests correction of the name of the assignee. The petition is not accompanied by a request for a certificate of correction (and fee).

37 CFR 3.81(b), effective June 25, 2004, reads:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

> in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). As petitioner has failed to comply with the provisions of 37 CFR 3.81(a), the request cannot be granted.

A review of Office database assignment records reflects that an assignment to Tiffin Scenic Studios, Inc., has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that Tiffin Scenic Studios, Inc., was the assignee of record at the time of issuance of the instant application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth Tiffin Scenic Studios, Inc., as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

After the submission by petitioner of the request for a certificate of correction to correct the assignee data on the front page of the Letters Patent, any questions pertinent

thereto should be directed to the Certificates of Correction Branch at (703) 305-8309.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MADSON & METCALF
GATEWAY TOWER WEST
SUITE 900
15 WEST SOUTH TEMPLE
SALT LAKE CITY UT 84101

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FEB 04 2005

OFFICE OF PETITIONS

In re Application of :
Smith, et al. :
Application No. 10/074,602 : ON PETITION
Filed: February 11, 2002 :
Attorney Docket No. 14181 :
For: MODULAR FIRE DETECTION AND EXTINGUISHING SYSTEM

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

The above-identified application became abandoned for failure to properly reply to the final Office action of October 31, 2003. Petitioners filed an amendment after final on January 29, 2004 that failed to place the above-identified application in *prima facie* condition for allowance. On October 21, 2004, an Advisory action was mailed. The application became abandoned on February 1, 2004. A Notice of Abandonment was mailed on November 2, 2004.

Applicants have submitted a reply in the form of a RCE and required fee, amendment, and IDS and required fee, an acceptable statement of the unintentional nature of the delay in responding to the October 31, 2003 final Office action, 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 Technology Center 3700 for further examination.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: SALLY J. BROWN
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Christopher A. Vanderlaan
Irell & Manella LLP
1800 Avenue of the Stars, Suite 900
Los Angeles, CA 90067

In re Application of:
Lawrence R. FINCHAM
Application Serial No.: 10/074,604
Filed: February 11, 2002
For: **SOUND SYSTEM AND METHOD FOR SOUND REPRODUCTION**

DECISION
ON PETITION

This is a decision on the Request for Reconsideration of Holding of Abandonment Pursuant to MPEP 711.03 filed December 20, 2004.

The petition is **GRANTED**.

A review of the application reveals that a Notice of Non-Compliant was mailed March 12, 2004 because applicant did use the proper status identifiers for the amended claims.

Petitioner urges that the Notice did not include the cover page outlining the procedure for correction and time period for response. Petitioner further urges that the received document was taken to be informational only. A review of petitioners Exhibit B indicates no page or sheet showing what corrective action the Office required. Nor is there indicated a period for response. Absent this cover sheet (see Exhibit C), it is reasonable to conclude that the Notice of Non-Compliant communication was informational only and did not require a response from applicant.

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

The application file is being forwarded to the Technology Center's technical support staff for entry of the corrected amended (attached to the petition as Exhibit D). From there, the file will be forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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Paper No. 8

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

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OFFICE OF PETITIONS

In re Application of :
THOMAS P. GRIEGO :
Application No. 10/074,666 : DECISION GRANTING PETITION
Filed: February 12, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 31248-3 :

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

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an 18 month publication country on February 12, 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 present petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request, which sets forth the projected publication date of December 4, 2003, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 1742 for examination in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice Regarding Rescission of Nonpublication Request and Notice of Foreign Filing

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ROBIN M. SILVA, ESQ.
FLEHR HOHBACH TEST ALBRITTON & HERBERT, LLP
FOUR EMBARCADERO CENTER, SUITE 3400
SAN FRANCISCO, CA 94111-4187

In re Application of	:
Stephen Mayo et al	:
Serial No.: 10/074,679	: PETITION DECISION
Filed: February 11, 2002	:
Attorney Docket No.: A-71138-1	:

This is in response to the petition under 37 CFR 1.181, filed September 22, 2006, requesting entry of an amendment and withdrawal of the Non-Compliant Amendment Notice.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 and contained claims 1-17 directed to a method for generating a protozyme. The examiner mailed a first Office action to applicants requiring an election of species with respect to claims 3-4 (timing of the insertion step) and claims 7-9 (type of active site). Applicants replied on March 15, 2004, amending claims 1 and 12, canceling claim 15 and electing the timing of insertion of claim 2 and active site of claim 7. Claim 1 was changed to a method for screening for protozymes. The election was made without traverse in view of M.P.E.P. 803.02.

The examiner mailed a new Office action to applicants on May 28, 2004, acknowledging the elections and rejecting claims 13-14 under 35 U.S.C. 112, second paragraph, as indefinite. Claims 1-2, 5-7, 10-14 and 16-17 were rejected under 35 U.S.C. 112, first paragraph, as lacking enablement. Claims 1-2, 5-7, 13-14 and 16 were rejected under 35 U.S.C. 102(b) as anticipated by WO 9853849. Claims 1-2, 5-7, 13-14 and 16 were also rejected under 35 U.S.C. 102(b) as anticipated by admitted prior art in the specification (Hellinga et al, Robertson et al and Klemba et al). Claims 10-12 and 16-17 were rejected under 35 U.S.C. 103(a) as unpatentable over WO 9853849 or Hellinga et al, Robertson et al, or Klemba et al in view of Brenner et al or admitted prior art. Claims 1-2, 5-7, 13-14 and 16 were further rejected under 35 U.S.C. 103(a) as obvious over US 6188965, US 6269312 and others in view of Anderson (US 6180343).

Applicants replied on November 29, 2004, canceling claims 1-17 and adding claims 18-26 directed to a method of identifying enzymes with novel catalytic activity and responding to the rejections of record.

The examiner mailed a Notice of Non-responsive amendment – that the newly added claims do not read on the previously elected invention – to applicants on February 23, 2005, setting a one month period for reply.

Applicants replied on May 23, 2005, amending claims 18, 20 and 22 and argued that the claims were directed a species of the originally claimed invention.

The examiner mailed to applicants a new Notice of Non-responsive amendment on August 1, 2005, setting a one month period for reply, maintaining that the amendment now presented was still non-responsive and explaining why applicants' arguments were not accepted.

Applicants replied on February 1, 2006, canceling claims 1-27 and adding new claims 28-36, directed to a method for screening protozymes and again responding to all of the rejections of record with respect to the newly added claims.

The examiner mailed another Notice of Non-responsive amendment to applicants on June 16, 2006, setting a one month period for reply, stating that the newly added claims are directed to a patentably distinct method from that originally presented.

Applicants filed this petition on September 22, 2006, requesting entry of the amendment and consideration thereof and also filed a further reply to the Notice of Non-responsive amendment maintaining claims 28-36 and adding claims 37-45.

DISCUSSION

Original claim 1, the only independent claim reads as follows:

1. A method for generating a protozyme, said method comprising:
   a) identifying a suitable protein scaffold lacking a desirable enzyme-like activity;
   b) inputting a protein backbone structure of said protein scaffold into a computer, wherein said backbone structure has variable residue positions ;
   c) inserting an active site domain into said scaffold;
   d) applying at least one protein design cycle; and
   e) generating a set of candidate variant proteins with putative enzyme-like activity.

And was amended following the election of species requirement, as follows:

1. (Currently amended) A method of screening for ~~generating a~~ protozymes, said method comprising:

a) identifying a suitable protein scaffold lacking a desirable enzyme-like activity;
b) inputting a protein backbone structure of said protein scaffold into a computer, wherein said backbone structure has variable residue positions ;
c) inserting an active site domain into said scaffold;
d) applying at least one protein design cycle; ~~and~~
e) generating a set of candidate variant proteins with putative enzyme-like activity[[.]];
f) synthesizing a plurality of said candidate variant proteins with putative enzyme-like activity; and,
g) testing said candidate variant proteins with putative enzyme-like activity and selecting at least one of said candidate variant proteins with enzyme-like activity.

Claim 5 adds a further limitation that the insertion step c) "comprises the use of at least one high energy state rotamer". Claims 1 and 5 were both rejected in the Office action of May 28, 2004, for various reasons.

In response applicants canceled claims 1 and 5 and added independent claim 18, as follows:

18. (New) A method of identifying enzymes with novel catalytic activity, comprising:

a) inputting the three dimensional coordinates of a target protein structure with variable residue positions into a computer;
b) inserting one or more high energy rotamers into said target protein;
c) applying at least one protein design cycle to the target protein structure;
d) generating a set of candidate enzymes with putative catalytic activity;
e) synthesizing a plurality of said candidate enzymes;
f) testing said candidate enzymes for said catalytic activity; and
g) selecting at least one candidate enzyme with catalytic activity.

Claim 18 included the limitation of high energy state rotamers as step b), but was considered non-responsive as it was not directed to method of generating or screening for protozymes.

Applicants in reply to the Notice of Non-responsive amendment of February 1, 2006, canceled claim 18 and added claim 28, as follows:

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28. (New) A method of screening for protozymes, said method comprising:

a) identifying a suitable protein scaffold lacking a desirable enzyme-like activity

b) inputting a protein backbone structure of said protein scaffold into a computer, wherein said backbone structure has variable residue positions;

c) inserting an active site domain into said scaffold comprising the use of one or more high energy state rotamers;

d) applying at least one protein design automation algorithm using high energy rotamers comprising:

i) establishing a group of variable position rotamers for each of said variable positions;

ii) analyzing the interaction of each said high energy rotamers with said variable position rotamers; and

iii) analyzing the interaction of each said high energy rotamers with the remainder of said protein backbone;

e) generating a set of candidate variant proteins with putative enzyme-like activity;

f) synthesizing a plurality of said candidate variant proteins with putative enzyme-like activity; and,

g) testing said candidate variant proteins with putative enzyme-like activity and selecting at least one of said candidate variant proteins with enzyme-like activity.

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As can be seen, claim 28 is directed again to screening protozymes, as in original claim 1, as amended prior to first action, and includes as step c) the insertion of a high energy rotamer. The examiner's statement in the last Notice of Non-responsive amendment, dated May 16, 2006, specifically: "the defining method step in the new claims is directed to inserting rotamers related to a substrate, rather than a protozyme, and is thus different from the method as originally claimed" is not supported by the record.

Original claim 1 requires an insertion step and is further modified by claim 5 which specifies that the insertion is of high energy state rotamers. Claims 1 and 5 were fully considered and rejected in the first Office action on the merits of the application dated May 28, 2004. The examiner's explanation as to why the limitation makes the amendment non-responsive appears to relate more to support in the disclosure in the specification and the requirements of 35 U.S.C. 112, first paragraph, rather than to whether the amendment is responsive or not.

Applicants' petition requests that claims 28-36 be examined with newly added claims 37-45 inasmuch as claims 28-36 are responsive to the Office action mailed May 28, 2004, and are not directed to an embodiment not encompassed within the claims as examined.

DECISION

The petition to examine claims 28-36, as presented in the amendment of February 1, 2006, with the claims now added by the amendment of September 22, 2006, is **GRANTED**.

The application will be forwarded to the examiner for consideration of the amendment filed September 22, 2006, and further action not inconsistent with this decision.

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

George C. Elliott
Director, Technology Center 1600

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425 SHERMAN AVENUE, SUITE 230
PALO ALTO, CA 94306

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OFFICE OF PETITIONS

In re Application of	:	
Lennart Olsson et al	:	
Application No. 10/074,695	:	DECISION ON PETITION
Filed: February 11, 2002	:	TO WITHDRAW
Attorney Docket No. 213542000102	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 8, 2005.

The request is **APPROVED**.

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

The request was signed by David J. Aston on behalf of all attorneys of record who are associated with Customer No. 23308. 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.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: Lennart Olsson
Receptron, Inc.
835 Maude Avenue
Mountain View, CA 94043

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

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OFFICE OF PETITIONS

In re Application of	:	
Dean R. Duffy	:	
Application No. 10/074,711	:	ON PETITION
Filed: February 13, 2002	:	
Attorney Docket No. 57450US002	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee, and publication fee, on or before January 5, 2004. Accordingly, this application became abandoned on January 6, 2004. A Notice of Abandonment was mailed on March 24, 2004.

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

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

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

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Paper No. 7

SAMUEL H. DWORETSKY
AT&T CORP.
P. O. BOX 4110
MIDDLETOWN, NJ 07748-4110

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OFFICE OF PETITIONS

In re Application of	:	
Scott Brenner et al	:	
Application No. 10/074,743	:	DECISION GRANTING PETITION
Filed: February 12, 2002	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. 2001-0156	:	

This is a decision on the petition, filed by facsimile transmission on April 24, 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.

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 2611 for examination in due course.

Frances Hicks

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

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FLETCHER YODER (MICRON TECHNOLOGY, INC.)
P.O. BOX 692289
HOUSTON, TX 77269-2289

Mail Date: 04/21/2010

Applicant	: Eric M. Dowling	: DECISION ON REQUEST FOR
Patent Number	: 7631170	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/074,779	: 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 **774** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. 3

Joe Zheng
SecretSEAL INC.
7394 Wildflower Way
Cupertino, CA 95014

MAILED

JUL 0 9 2002

Technology Center 2100

In re Application of: Denis J. P. Garcia
Application No. 10/074,804
Filed: February 14, 2002
For: SECURED DATA FORMAT FOR ACCESS CONTROL

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P §708.02(VIII)

This is a decision on the supplemental petition, filed June 4, 2002 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

M.P.E.P. §708.02(VIII) states that an applicant may be granted special status provided that the applicant:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement.

(d) Submits one copy 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) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicant's petition is deficient for the following reasons:

- Failure to provide a listing of the field of search by class and subclass.

- Failure to provide a detailed description of how claimed subject matter is patentable over each reference. Applicant has merely reproduced the Abstracts (or a portion thereof) provided in each reference. **There is no detailed discussion of the references as required by section (e) to the extent required by 37 CFR 1.111(b) and (c).** The discussion of each reference should be accompanied by a thorough account of how the reference – independently or in combination with other references- fails to teach or suggest all relevant aspects of the independent claims.

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.

If the petitioner desires further review of this decision, applicant should consider filing a Request for Reconsideration within 2 months of the mailing date of this decision.

Pinchus M. Laufer

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

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OFFICE OF PETITIONS

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

In re Application of

GARCIA
Application No. 10/074,804
Filed: February 12, 2002
Attorney Docket No. PA2904US

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 20, 2006.

The request is **APPROVED**.

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

The request was signed by Susan Yee on behalf of all attorneys of record who are associated with customer No. 22830. All attorneys/agents associated with the Customer Number 22830 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 assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed October 25, 2006 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **PSS SYSTEMS, INC.**
2471 EAST BAYSHORE ROAD, SUITE 600
PALO ALTO, CA 94303

cc: **RYAN MORRISON**
INVENTION LAW GROUP
1756-114TH AVENUE, SUITE 110
BELLEVUE, WA 98004

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IP LEGAL DEPARTMENT
TYCO FIRE AND SECURITY SERVICES
ONE TOWN CENTER ROAD
BOCA RATON, FL 33486

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OFFICE OF PETITIONS

In re Application of :
Hubert et al. :
Application No. 10/074,814 : ON PETITION
Filed: February 13, 2002 :
Attorney Docket No. 8036 (1) US :

This is a decision in response to the petition under 37 CFR 1.137(b), filed January 20, 2005, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed October 22, 2003. 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 January 23, 2004. A Notice of Abandonment was mailed April 29, 2004.

A petition to revive the application, filed September 17, 2002, was dismissed in a Decision mailed December 9, 2004, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(b).

With the instant petition, Applicant has filed a Request for Continued Examination ("RCE") and a submission in the form of an Amendment.

The petition fee, $1500.00, and RCE filing fee, $790.00, have been charged to deposit account 19-1346 as authorized in the Fee Transmittal filed with the application and the RCE Transmittal respectively.

This application is being returned to Technology Center 1751 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 Advisor
Office of Petitions

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Commissioner for Patents
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Paper No. 6

Angelo J. Bufalio, Esq.
Vedder, Price, Kaufman & Kammholz
222 North LaSalle Street
24th Floor
Chicago, IL 60601

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OFFICE OF PETITIONS

In re Application of	:	
Lowell I. Stahl, et al.	:	
Application No. 10/074,866	:	ON PETITION
Filed: February 13, 2002	:	
Attorney Docket No. 33605.00.0002	:	

This is in response to petition under 37 CFR 1.47(a), filed September 12, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

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

As provided in 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

Telephone inquiries regarding this decision should be directed to Marianne Morgan at (703) 306-3475.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Herbert R. Williams
600 S. Dearborn, #611
Chicago, IL 60605

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OFFICE OF PETITIONS

In re Application of
Lowell I. Stahl; Frank J. Kross; Frank J. Perroni; Herbert R. Williams
Application No. 10/074,866
Filed: February 13, 2002
For: SINGLE PREMIUM ANNUITY FOR SATISFYING AN EQUITY LOAN

Dear Mr. Herbert R. Williams:

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

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

Telephone inquiries regarding this communication should be directed to Marianne Morgan at (703) 306-3475. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Frances Hicks

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

cc: Angelo J. Bufalino
Vedder, Price, Kaufman & Kammholz
222 N. LaSalle Street
Chicago, IL 60601

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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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OFFICE OF PETITIONS

In re Application of

BOOE, James
Application No. 10/074,894
Filed: February 13, 2002
Attorney Docket No. **3282-68953**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 29, 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 Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by James Sweeney, on behalf of all attorneys of record who are associated with customer No. 23643. All attorneys/agents associated with the Customer Number 23643 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor James Booe at the address indicated below.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **JAMES BOOE**
2427 NORTH RITTER AVENUE
INDIANAPOLIS IN 46218

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OFFICE OF THE DIRECTOR
TC 3600

STEINBERG & RASKIN, P.C.
1140 AVENUE OF THE AMERICAS, 15th FLOOR
NEW YORK NY 10036-5803

Paper No 8

In re Application of
Namiki Shinpei et al.
Application No.10/074905
Filed: November 13, 2001
For: DAMPER AND METHOD OF FABRICATING THE DAMPER

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

The paper filed April 2, 2003 has been treated as a Petition to Withdrawal the Holding of Abandonment.

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

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated_____.

☒ Certificate of Mailing/Transmission signed on November 14, 2002. and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

This application is being forwarded to the examiner for appropriate action.

en/9/26/03

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Office of the Director
Group 3600
Paper No. 7

Peter Paul M. Catalasan
25410 Dodge # K
Harbor City, CA 90710

In re Application of
Peter Paul M. Catalasan
Application No. 10/074,935
Filed: February 14, 2002
For: CATALASAN NUCLEAR FUSION REACTOR...

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's letter filed in the United States Patent and Trademark Office on August 18, 2003 which has been treated as a Petition to Withdrawal the Holding of Abandonment.

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

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____. and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

☒ Originally sent response filed January 7, 2003 has been found and matched with the application.

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

cps/2/10/04

Kenneth J. Dorner

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Paper No. 7

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

In re Application of
James ASLANIS
Application No. 10/074,942
Filed: February 11, 2002
For: FRAME SYNCHRONIZATION IN MULTICARRIER TRANSMISSION SYSTEMS

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Petition for Withdrawal of Abandonment, filed February 11, 2004, requesting the holding of abandonment be withdrawn in the above-identified application.

This application was held abandoned for failure to the non-final Office action mailed July 2, 2003. A Notice of Abandonment was mailed February 2, 2004.

Petitioner states that a response was in fact timely filed. To support this assertion, petitioner has submitted a date-stamped copy of a return postcard which acknowledges receipt by the Patent and Trademark Office of an amendment, petition for an extension of time, information disclosure statement and transmittal sheet on January 5, 2004. Petitioner has also submitted a copy of the items.

M.P.E.P. § 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

The response is considered timely filed even though the post card receipt bears a date of January 5, 2004, more than six months from the mailing of the Office action, since the response includes a certificate of mailing certifying deposit on January 2, 2004 and is accompanied with a petition for three months extension of time. Accordingly, the copy of the response is accepted.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application file will be forwarded to the Technology Center's technical support staff for entry of the copy of the response. From there, the file will be forwarded to the examiner for appropriate action in due course.

Jin F. Ng, Director
Technology Center 2600
Communications

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Paper 6

Allegiance Corporation
Attn: Kim Diliberti
1430 Waukegan Road
McGaw Park, IL 60085-6787

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MAR 1 9 2004

OFFICE OF PETITIONS

In re Application of
Evans et al.
Application No. 10/074,959
Filed: February 12, 2002
Attorney Docket No. SPEC-6150
Title of Invention: MULTI-USE SURGICAL CEMENT DISPENSER APPARATUS AND KIT FOR SAME

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed February 19, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on March 7, 2002. The Notice to File Missing Parts set an extendable two (2) month period for reply. No timely request for extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on May 8, 2002. A Notice of Abandonment was mailed on January 13, 2004.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

Pursuant to petitioner's request deposit account 01-0485 has been charged the $1330.00 petition fee and the $130.00 surcharge for late filing of a fee or declaration.

The Office acknowledges receipt of the declaration.

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

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
Lloyd Watts	:	
Application No. 10/074,991	:	DECISION GRANTING
Filed: February 13, 2002	:	PETITION
Attorney Docket No. ANSCP006	:	
	:	

This is a decision on the petition, filed July 1, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f). This is also a decision on the petition under 37 CFR 1.313(c)(2), to withdraw the application from issue after payment of the issue fee.

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 February 11, 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, accompanies this decision on petition.

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

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

Petitioner is advised that the issue fee paid on July 7, 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].

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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).

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

This application is being forwarded to Technology Center Art Unit 2644 to 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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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

GC

Mailed: 7-19-06

In re application of	:	
Burris et al.	:	
Serial No. 10/074,992	:	DECISION ON
Filed: February 13, 2004	:	PETITION
For: OPERATORY WATER	:	
DISINFECTION SYSTEM	:	

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION, dated June 7, 2006.

On April 7, 2005, a non-final Office Action was mailed to Applicants. A reply to the Office Action was filed on July 7, 2005. On September 16, 2005 a second non-final Office Action was mailed to Applicants. A reply to the Office Action was filed on December 16, 2005. On March 3, 2006, a Final Office Action was mailed. On June 7, 2006, the present petition was filed.

Petitioner has argued that the finality of the last Office Action is incomplete in that the Office Action does not specifically set forth separate rejections for all the dependent claims, in particular dependent Claims 14, 19, 23, and 25.

DECISION

37 CFR § 1.181 Petition to the Director.

> (f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

The instant petition was submitted by Petitioner on June 7, 2006 which falls more than **two** months after the date of the Final Office Action (March 3, 2006) thereby making the instant petition untimely under 37 CFR 1.181 (f).

The Petition is **DISMISSED**.

Jacqueline M. Stone

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

BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD NY 14526

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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of :
Chang-Ping LEE, et al. :
Application No. 10/074,996 : DECISION ON PETITION
Filed: February 12, 2002 : TO WITHDRAW
Attorney Docket No. SS-008 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 20, 2006.

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

A review of the file record indicates that the power of attorney to Susan Yee of CARR & FERRELL LLP has been revoked by the assignee of the patent application on March 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **STERNE KESSLER GOLDSTEIN & FOX PLLC**
1100 NEW YORK AVENUE NW
WASHINGTON, DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

MARK D. ELCHUK AND ALAN L. CASSEL
HARNESS, DICKEY & PIERCE, P.L.C.
SUITE 400
5445 CORPORATE DRIVE
TROY, MI 48098-2683

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DEC 0 3 2002

OFFICE OF PETITIONS

In re Application of
Roger R. Brinkley et al
Application No. 10/075,032
Filed: February 12, 2002
For: METHOD AND APPARATUS FOR REMOTE INITIATION OF ARINC 615 DOWNLOADS

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

This is in response to the petition under 37 CFR 1.47(a), filed August 30, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The file 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 regarding this decision should be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to the Initial Patent Examination Unit.

Frances Hicks

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

cc:

Alan L. Cassel
Harness, Dickey & Pierce
7700 Bonhomme, Suite 400
St. Louis, MO 63105

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SEP 12 2005

Steven Horowitz
Couselor At Law
Suite 700
295 Madison Avenue
New York, NY 10017

In re application of Alvin Koningsberg Application No. 10/075,033 Filed: January 12, 2002 For: METHOD OF OPERATING A SAVINGS PLAN FOR HEALTH CARE SERVICES	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on August 29, 2005 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 declaration signed by Alvin Koningsberg indicating 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**.

Kenneth J. Domer
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/dcg: 9/7/05

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Paper No. 7

ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

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OFFICE OF PETITIONS

In re Application of :
Z. Gerald Liu, et al. :
Application No. 10/075,035 :
Filed: February 12, 2002 :
Attorney Docket No. 4695-00009 :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed July 10, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on January 2, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being forwarded to Technology Center Art Unit 1724 for examination in due course.

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

Conferee: Frances M. Hicks
Lead Petitions Examiner

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Paper No. 7

Michael E. Taken
ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 East Wisconsin Avenue, Suite 1100
Milwaukee, WI 53202

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OFFICE OF PETITIONS

In re Application of
Aleksey YEZERETS
Application No. 10/075,036
Filed: February 12, 2002
Attorney Docket No.4695-00010

DECISION
ON PETITION
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(f) filed August 7, 2003, which is being treated as a petition under 37 CFR1.137(b) to revive the above-identified application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137 (f).

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country. The filing date of the subsequently filed foreign or international application is: January 2, 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. Sect. 122 (b) (2) (B) (iii) and 37 CFR 1.213© for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational agreement that requires publication of applications 18 months after filing.

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

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

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

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

This application is being forwarded to Technology Center Art Unit 1764 for examination in due course.

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

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

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HOWREY LLP-CA
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

Mail Date: 04/21/2010

Applicant	: Wei Wang	: DECISION ON REQUEST FOR
Patent Number	: 7584262	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/075,051	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/12/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1120** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

GAZDZINSKI & ASSOCIATES
11440 WEST BERNARDO COURT
SUITE 375
SAN DIEGO, CA 92127

APR 13 2003

In re Application of:
Chen C. Chen et al
Serial No.: 10/075,059
Filed: February 11, 2002
Attorney Docket No.: **DF.DEL003A**

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR § 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed October 17, 2003, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

Upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that any previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund, or a credit to a Deposit Account.

Telephone inquires should be directed to Paula Bradley at (571) 272-2001.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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WYETH
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

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NOV 0 8 2004

OFFICE OF PETITIONS

In re Application of
Jasbir S. Seerha et al.
Application No. 10/075,079
Filed: February 12, 2002
Attorney Docket No. GI-5324 CI

ON PETITION

This is a decision on the petition filed July 29, 2004[1] to correct the filing date to February 12, 2002 rather than the presently accorded filing date of May 8, 2002, which is treated under 37 CFR 1.53.

On February 12, 2002, applicant filed the above-identified application. However, on April 23, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Items" stating that a filing date had been assigned but indicated that page 220 of the specification appeared to have been Omitted.

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

Finally, the third option is in the absence of electing options 1) or 2) above, to constructively opt to accept the filing date which has been accorded with the papers filed upon application. With option 3), no petition under 37 CFR 1.182 is necessary for that purpose.

---

[1]Petitioner has submitted proof that the petition was originally filed January 12, 2004.

In this case, petitioners claim that by their inaction or their failure to submit page 220 of the specification with a petition under 37 CFR 1.182, they constructively opted to accept the February 12, 2002 without page 220 of the specification as part of the original disclosure.

A review of the file reveals that applicant neither admits nor denies that page 220 of the specification was present upon filing but on May 8, 2002 however, petitioners filed a preliminary amendment and a copy of page 220 of the specification.

Applicant's intentions with respect to the options available pursuant to the "Notice" were not clear and the filing of a copy of the omitted page may have confused the situation. However, since a petition under 37 CFR 1.182 was not filed and since an amendment was filed on May 8, 2002, it appears that applicant was constructively electing to have the application accepted as filed on February 12, 2002 without page 220 of the specification.

The Office of Initial Patent Examination will be notified to correct the filing date of the application to February 12, 2002 without page 220 of the specification as part of the original disclosure. In view of the fact that the issue fee has been paid and the application is ripe for issue, after a correction of the filing date, the application should be forwarded to the Publishing Division to be processed into a patent.

Any further concerns specific to this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

WYETH
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON, NEW JERSEY 07940

In re Application of
Seerha et al.
Application No. 10/075,079
Filed: February 12, 2002
Attorney Docket No. *

: DECISION ON REQUEST FOR PATENT
: TERM ADJUSTMENT
:RECONSIDERATION

This decision is in response to Applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN THE NOTICE OF ALLOWANCE (37 CFR 1.705(b)" timely[1] field on September 21, 2004. Applicants request that the Patent Term Adjustment reflect a value of one hundred and eight (108) days rather that the United States Patent and Trademark Office determination of twenty-one days.

The Applicants' request has been **GRANTED.** The Office will adjust the Patent Term adjustment determination at the time of the mailing of the Notice of Allowance to reflect a determination of one hundred and eight (108) days.

The Applicants asserts that the difference in the amount of patent term adjustment is related to the date of the filing of the application. The applicants assert that the filing date of the application is incorrect and that the filing date of the application was February 12, 2002, not May 8, 2002. Accordingly, the applicants assert that the amount of time awarded for the Office's failure to initially act upon the application is one hundred and twenty-three (123) days rather than the thirty-days as shown in the PTA calculation.

The applicants arguments are well taken. On November 8, 2004, the Office decided a filing date petition that changed the filing date of the application from May 8, 2004 to February 12, 2004. Accordingly, the Office missed the fourteen-month to first action requirement by a period of one hundred and twenty-three days (123) rather than the initial determination of thirty-six (36) days.[2] In addition, it is undisputed that the application took over three months to respond to an Office action and accordingly failed to engage in reasonable efforts to conclude prosecution of the application by a period of fifteen (15) days. Overall the patent term adjustment at the time of the mailing of the notice of allowance is one hundred and eight (123-15) days.

---

[1]Issue fee paid on September 21, 2004, same date as petition.

[2]The administrative delay began on April 13, 2003, the day after the fourteen month term expired and ended on August 13, 2004 the date of the first mailing of an action under 35 USC 132 (restriction requirement).

The Office will adjust the PAIR calculation to reflect this decision.

The Office will charge DA **07-1060** $200.00 as authorized. No additional fees are required.

This application will be forwarded to the Office of Publication for the prompt issuance of the patent application.

Any additional questions concerning this matter should be direct to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.

Kery A. Fries for

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

cc: Copy of adjusted Pair calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 8

ALAN L. CASSEL
HARNESS, DICKEY & PIERCE, P.L.C.
SUITE 400
5445 CORPORATE DRIVE
TROY, MI 48098-2683

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NOV 2 5 2002

OFFICE OF PETITIONS

In re Application of	:
Roger Brinkley et al	:
Application No. 10/075,083	: DECISION GRANTING
Filed: February 12, 2002	:STATUS UNDER 37 CFR 1.47(a)
For: METHODS AND APPARATUS FOR	:
WIRELESS UPLOAD AND DOWNLOAD	:
OF AIRCRAFT DATA	

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

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The file 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 regarding this decision should be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to Technology Center 2600.

Frances Hicks

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

cc:

Alan L. Cassel
Harness, Dickey & Pierce
7700 Bonhomme, Suite 400
St. Louis, MO 63105

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 2023
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DAVID R. LEE
15409 SE 128TH STREET
RENTON, WA 98059

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OFFICE OF PETITIONS

In re Application of
Roger Brinkley; Timothy Mitchell; Jerry Price; David Lee
Application No. 10/075,083
Filed: February 12, 2002
For: METHODS AND APPARATUS FOR WIRELESS UPLOAD AND DOWNLOAD OF AIRCRAFT DATA

Dear Mr. Lee:

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

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

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

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

cc:

Alan L. Cassel
Harness, Dickey & Pierce, P.L.C.
5445 Corporate Drive, Suite 400
Troy, MI 48098-2683

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Paper No. 8

ALAN L. CASSEL
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TROY, MI 48098-2683

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OFFICE OF PETITIONS

HK 01-469 (00963)

In re Application of	:
Roger Brinkley et al	:
Application No. 10/075,083	: DECISION GRANTING
Filed: February 12, 2002	:STATUS UNDER 37 CFR 1.47(a)
For: METHODS AND APPARATUS FOR	:
WIRELESS UPLOAD AND DOWNLOAD	:
OF AIRCRAFT DATA	

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

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The file 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 regarding this decision should be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to Technology Center 2600.

Frances Hicks

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

cc:

Alan L. Cassel
Harness, Dickey & Pierce
7700 Bonhomme, Suite 400
St. Louis, MO 63105

7784-0003 ✓MDE

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DAVID R. LEE
15409 SE 128TH STREET
RENTON, WA 98059

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OFFICE OF PETITIONS

In re Application of
Roger Brinkley; Timothy Mitchell; Jerry Price; David Lee
Application No. 10/075,083
Filed: February 12, 2002
For: METHODS AND APPARATUS FOR WIRELESS UPLOAD AND DOWNLOAD OF AIRCRAFT DATA

RECEIVED
NOV 28 2003
Technology Center 2600

Dear Mr. Lee:

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

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

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

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

cc:

Alan L. Cassel
Harness, Dickey & Pierce, P.L.C.
5445 Corporate Drive, Suite 400
Troy, MI 48098-2683

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Paper No.

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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AUG 0 5 2004

OFFICE OF PETITIONS

In re Patent No. 6,746,285 Delcourt et al. Issue Date: June 8, 2004 Application No. 10/075,090 Filed: February 12, 2002 Attorney Docket No. 0275M-000441	DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT and NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the "PETITION TO REQUEST RECONSIDERATION OF PATENT TERM ADJUSTMENT CALCULATION PURSUANT TO 37 CFR 1.705," filed June 17, 2004. Patentees request that the patent term adjustment indicated in the patent be corrected from ninety-four (94) to one hundred forty-three (143) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred forty-three **(143)** days.

On June 8, 2004, the above-identified application matured into U.S. Patent No. 6,746,285. The instant request for reconsideration filed June 17, 2004 was timely filed within 30 days of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 94 days. Patentees state that the initial determination of patent term adjustment of 143 days should not have been reduced by 49 days for the submission of a Comments on Statement of Reasons for Allowance, filed after mailing of the notice of allowance.

Patentees' argument is well-taken. By Official Gazette Notice dated June 26, 2001, the Director has advised applicants and patentees that the filing after the mailing of a Notice of Allowance of a response to the examiner's reasons for allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application

and will not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10) *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance*, 1247 OG 111 (June 26, 2001). A review of the application record confirms that the reduction of 49 days was based on the filing after allowance of the "Comments on Statement of Reasons for Allowance" filed April 21, 2004. Thus, it is concluded that the patent term adjustment should not have been reduced by 49 days.

Furthermore, there were no other bases for reduction of the patent term adjustment.

In view thereof, the patent term adjustment indicated on the patent should have been one hundred forty-three **(143)** days.

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 02-2550, as authorized. 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. See 35 U.S.C. § 254 and 37 CFR § 1.322. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one hundred forty-three (143) days.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (703) 305-0309.

Kery A. Fries for

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

Enclosure: Copy of DRAFT Certificate of Correction

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P.O. BOX 3791
ORLANDO, FL 32802-3791

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OFFICE OF PETITIONS

In re Application of
Marc Beaujoin, et al.
Application No. 10/075,113
Filed: February 13, 2002
Attorney Docket No. 00GR227754352

DECISION ON PETITION

This is a decision on the petition, August 5, 2009, which is being treated as petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is GRANTED.

The above-identified application was held abandoned because the period for seeking court review of the decision by the Board of Patent Appeals and Interferences mailed July 7, 2009 had expired and there were no allowed claims. A Notice of Abandonment was mailed July 21, 2009.

Petitioner asserts that the Notice of Abandonment mailed July 21, 2009 be withdrawn as it was premature because the period for seeking court review of the decision by the Board of Patent Appeals and Interferences mailed July 7, 2009 had not expired.

MPEP 1214.06 states:

> The time for seeking review of a decision of the Board by the Court of Appeals for the Federal Circuit or the U.S. District Court for the District of Columbia is the same for both tribunals, that is, 2 months, or 2 months with the extension provided by 37 CFR 1.304 in the event a request for rehearing is timely filed before the Board, or as extended by the Director.

As the period for seeking court review of the decision by the Board of Patent Appeals and Interferences had not expired prior to the filing of a Request for Continued Examination under 37 CFR 1.114 on August 5, 2009 the examiner did not follow the provisions of MPEP 1214.06. Accordingly, the Notice of Abandonment mailed July 21, 2009 is withdrawn as premature.

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642. All other inquiries concerning this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2117 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No. 4

Ormiston & McKinney, PLLC
802 W. Bannock, Suite 400
P. O. Box 298
Boise, Idaho 83701-0298

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Technology Center 2100

In re Application of: Richard Detweiler et al.	)	
Application No. 10/075,134	)	DECISION ON PETITION TO
Filed: January 19, 2001	)	MAKE SPECIAL UNDER
For: COORDINATED	)	M.P.E.P. §708.02(II):
SYNCHRONIZATION	)	INFRINGEMENT

This is a decision on the petition, filed January 22, 2004, 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

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Paper No. 9

E.I. DU PONT DE NEMOURS & CO.
LEGAL/PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
WILMINGTON DE 19805

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OFFICE OF PETITIONS

In re Application of
Eldada
Application No. 10/075,138
Filed: February 14, 2002
Attorney Docket No. 6156
For: HITLESS ERRORLESS TRIMMABLE DYNAMIC OPTICAL ADD/DROP MULTIPLEXER DEVICES

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed February 11, 2004, to revive the above-identified application. While the form used to file the petition is PTO/SB/61, the unavoidable revival form (37 CFR 1.137(a)), the fee transmittal authorizes the Office to charge $1,330.00, which is the fee associated with an unintentional revival under 37 CFR 1.137(b). In addition, petitioner has submitted no showing of unavoidable delay. This leads the undersigned to believe that the use of the unavoidable form was an error and that petitioner intended to file a petition to revive under the unintentional standard of 37 CFR 1.137(b). Therefore, the petition will be treated under 37 CFR 1.137(b).

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

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

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Application Office action mailed April 1, 2002, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a), this application became abandoned on June 2, 2002. A Notice of Abandonment was mailed on January 14, 2004.

Petitioner has submitted an executed declaration, the surcharge for filing a late declaration, the petition fee, and a statement of the unintentional nature of the delay in responding to the April 1, 2002 Notice.

The statement of unintentional delay presented in the Fee Transmittal does not comply with the current rule. Effective December 1, 1997, 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

Pursuant to petitioner's authorization, deposit account no. 04-1928 will be charged a $130.00 surcharge for the late filing of a declaration and a $1,330.00 petition fee for filing a petition to revive under 37 CFR 1.137(b).

After the mailing of this decision, the application will be returned to the Office of Initial Patent Examination for further processing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
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Paper No. 7

Aaron A. Fishman
Pearne & Gordon, LLP
526 Superior Avenue, East
Suite 1200
Cleveland, Ohio 44114-1484

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NOV 2 7 2002

Technology Center 2100

In re Application of: Shinya Adachi et al.	)	
Application No. 10/075,164	)	
Filed: February 14, 2002	)	**DECISION ON PETITION FOR**
For: METHOD FOR TRANSMITTING	)	**ACCELERATED EXAMINATION**
LOCATION INFORMATION ON A	)	**UNDER M.P.E.P. §708.02(VIII)**
DIGITAL MAP	)	

This is a decision on the petition, filed November 7, 2002 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, ...

(c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a ***detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.***

> In those instances where the request for this special status does not meet all the prerequisites set forth above, ***applicant will be notified and the defects in the request will be stated***. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission is deficient in that it merely provides a brief synopsis of each reference accompanied by a statement that the particular reference does not include the features of the claimed invention. That is, there is **no detailed discussion of the references**, which points out with particularity how the claimed subject matter is patentable over the references as required by section (e) to the extent required by 37 CFR 1.111(b) and (c).

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.

Pinchus M. Laufer

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Shinya Adachi	: DECISION ON REQUEST FOR
Patent Number	: 7634452	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/075,164	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/14/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1092** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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NOV - 1 2004

Paper No. 7

In re Application of	:	
Brian E. Cron	:	
Application No. 10/075,172	:	DECISION ON PETITION
Filed: February 12, 2002	:	
Attorney Docket NoMI122-1804	:	

This is a decision on the petition filed on July 6, 2004, by which petitioner requests withdrawal of holding that this application stands abandoned for failure to file a timely reply to the Office letter dated November 19, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because petitioner did in fact file a timely reply to the Office letter in question. Petitioner supports this allegation by submitting a copy of the reply. The reply has affixed thereto a 37 CFR 1.8(a) certificate of transmission dated February 5, 2004, a date within the period for filing a reply to Office letter in question. Therefore, it is clear that this application is not abandoned. See 37 CFR 1.8(b).

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the reply that is attached to the petition. The date to which the reply is entitled is February 5, 2004. Thereafter, the application will be forwarded to the examiner for appropriate action.

PETITION GRANTED.

H. Rollins-Cross, Director
Technology Center 3700

Wells St. John P.S.
601 W. First Avenue
Suite 1300
Spokane, WA 99201

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WELLS ST. JOHN PS
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

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APR 12 2005

OFFICE OF PETITIONS

In re Application of	:
Shenlin Chen et al	:
Application No. 10/075,193	: DECISION GRANTING PETITION
Filed: February 13, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. M122-1927	:

This is a decision on the petition, filed April 4, 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 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2813 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

#6
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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DEC 16 2002

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DEC 16 2002

Office of the Director
Group 3600

Pearne & Gordon LLP
526 Superior Avenue East
Suite 1200
Cleveland, OH 44114-1484

Paper No. 6

In re application of
Shinya Adachi et al.
Application No. 10/075,208
Filed: February 14, 2002
For: METHOD FOR TRANSMITTING LOCATION INFORMATION ON A DIGITAL MAP, APPARATUS FOR IMPLEMENTING THE METHOD, AND TRAFFIC INFORMATION PROVISION/ RECEPTION SYSTEM

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED EXAMINATION)**

This is in response to the petition filed on August 26, 2002 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII. The delay in treating this petition is sincerely regretted.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

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: 12/9/02

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,217	02/14/2002	Shai N. Gozani	NEURO-NRO-008	8764

7590 02/06/2008

Mark J. Pandiscio
Pandiscio & Pandiscio
470 Totten Pond Road
Waltham, MA 02154

EXAMINER
APANIUS, MICHAEL

ART UNIT	PAPER NUMBER
3736	

MAIL DATE	DELIVERY MODE
02/06/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mark J. Pandiscio
Pandiscio & Pandiscio
470 Totten Pond Road
Waltham MA 02154

In re Application of:	:	
Gozani et al	:	
Serial No. 10/075,217	:	
Filed: Feb. 14, 2002	:	
Docket: NEURO-NRO-008	:	DECISION ON PETITION
Title: APPARATUS AND METHOD FOR PERFORMING NERVE CONDUCTION STUDIES WITH LOCALIZATION OF EVOKED RESPONSES	:	UNDER 37 CFR § 1.181

This is a decision on the petition to withdraw holding of abandonment filed on Jan. 11, 2008. The letter is being considered as a petition pursuant to 37 CFR 1.181(a). No fee is required. The petitioner requests withdrawal of the holding of abandonment.

The petition is **GRANTED.**

The present application was held abandoned for failure to timely respond to the Non-Final Rejection mailed on Feb. 23, 2007 which set forth a three-month period for reply. Notice of abandonment was mailed on Dec. 11, 2007.

Petitioner asserts that a timely response to the Non-Final Rejection was submitted on Aug 23, 2007. The petitioner has supplied a copy of the amendment as well as a copy of certificate of mailing dated Aug. 23, 2007 and an acknowledgement post-card receipt indicating a receipt date of Aug. 23, 2007. The USPTO Palm system also shows that there was a petition of three-month extension of time fee paid.

As the petitioner has provided convincing evidence that a timely reply to the Non-Final Office action was submitted on Aug. 23, 2007, there is no abandonment in fact. Any inconvenience or delay caused to applicant is regretted.

In view of the above, the Notice of Abandonment mailed Dec. 11, 2007 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner in Art Unit 3736 for appropriate action.

Frederick R. Schmidt, Director
Technology Center 3700

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FREESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
7700 WEST PARMER LANE MD: TX32/PL02
AUSTIN TX 78729

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MAR 29 2005

OFFICE OF PETITIONS

In re Application of
Kobayashi et al.
Application No. 10/075,218
Filed: February 14, 2002
Attorney Docket No. PTO/SB/31

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2005, which is being treated as a request to withdraw the holding of abandonment for the above-identified application.

This application became abandoned for failure to timely file a proper response to the final Office action mailed October 6, 2003, which set a three-month shortened statutory period to respond. On November 17, 2003, applicants timely filed an amendment. However, by advisory action mailed on December 19, 2003, applicants were advised that the amendment had been considered, but was not deemed to place the application in condition for allowance. In the apparent absence of a timely filed response, the application was held abandoned and a Notice of Abandonment was mailed on December 16, 2004.

In the present petition, applicants state that on January 6, 2004, applicants submitted a Notice of Appeal and an authorization to charge any necessary fees with a certificate of facsimile transmission dated January 6, 2004. Applicants submitted a copy of the sending unit's report confirming transmission. On March 8, 2004, applicants submitted an appeal brief. The appeal brief was located in the official file; however, the Notice of Appeal appears to be missing.

37 CFR 1.8(b) states:

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

After reviewing the papers submitted on petition, the Notice of Appeal is considered timely filed on January 6, 2004 in response to the final Office action. Accordingly, the petition is **granted**. The Notice of Abandonment is hereby vacated. The application is restored to pending status in view of the fact that a response was timely submitted on January 6, 2004.

The matter is being referred to the Technology Center Art Unit 2814.

Telephone inquiries concerning this matter 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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FREESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
7700 WEST PARMER LANE MD:TX32/PL02
AUSTIN, TX 78729

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AUG 0 3 2007

OFFICE OF PETITIONS

Applicant: Kobayashi, Thomas
Appl. No.: 10/075,218
Filing Date: February 14, 2002
Title: SEMICONDUCTOR DEVICE HAVING A FUSE AND METHOD OF FORMING THEREOF
Attorney Docket No.: SC11931TP
Pub. No.: US 2003/015060 A1
Pub. Date: August 14, 2003

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on August 22, 2006, for the above-identified application

The request is DISMISSED.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within **two months** from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication, received on August 8, 2006, was not timely filed under 37 CFR 1.221(b).

The patent application publication was published with the contents of another application. Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

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

By fax: Attn: Petitions
(571) 273-8300

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

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 12

EDWARD LUDWIG BLENDERMANN
69 REGENCY DRIVE
PORT ORANGE, FL 32129

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JUL 1 4 2004

OFFICE OF PETITIONS

In re Application of
Blendermann
Application No. 10/075,221
Filed: February 13, 2002
For: PROPRIOCEPTIVE DEVICE THAT CONTAINS NUTRIENTS FOR THE TREATMENT OF STATUAL DISEASES

ON PETITION

This decision concerns the June 22, 2004 petition under 37 CFR 1.137(b) to revive the above-referenced application, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in this application.

The petition is **GRANTED.**

On October 6, 2003, a non-final Office action was mailed, setting forth a 3-month shortened statutory reply period. Applicant filed an amendment on January 30, 2004 along with a $55 payment (small entity) for a 1-month extension of time.

On February 26, 2004, a "Notice of Non-Compliant Amendment (37 CFR 1.121)" was mailed ("2/26/04 Notice"), giving Applicant 1 month for submitting a corrected amendment in compliance with 37 CFR 1.121.

As pointed out in the 2/26/04 Notice, extensions of time under 37 CFR 1.136(a) are available for submitting a corrected amendment **if** the non-compliant amendment is a reply to a **non-final** Office action, **which is the case here**. Therefore, the application did not become abandoned a month later. Rather, Applicant may submit the corrected amendment along with the requisite fee for an extension of time of up to 5 months. The corrected amendment accompanying the instant petition requires a 3-month extension of time ($475; small entity). The instant petition encloses a $665 check intended for paying the §1.137(b) petition fee. Thus, a credit balance of $190 results and has been refunded.

In view of the above, the application should not have been held abandoned. The petition is thus granted and the April 19, 2004 Notice of Abandonment hereby vacated.

Finally, as requested, the new correspondence address has been entered and made of record.

The application file is being returned to Technology Center 3700 for further examination.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
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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Edward L. Blendermann
87 Cypress Pond Road
Port Orange, FL 32128

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SEP 25 2006

OFFICE OF PETITIONS

In re Application of
Blendermann
Application No. 10/075,221
Filed: November 13, 2002
For: PROPRIOCEPTIVE DEVICE THAT CONTAINS NUTRIENTS FOR THE TREATMENT OF STRATURAL DISEASES

DECISION ON PETITION

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed May 20, 2005 and supplemented June 20, 2006.

The petition is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

This application became abandoned March 20, 2004 for failure to timely submit a proper reply to the final Office action mailed October 19, 2004. Notice of Abandonment was mailed May 4, 2005.

Petitioner alleges a response to the final Office and a petition for two-month extension of were timely submitted on March 31, 2005.

Petitioner is advised that the response submitted March 31, 2005 is deemed untimely.

The final Office action, mailed October 19, 2004, set a three-month shortened period of time for reply, making a response due on or before January 19, 2004. The period of time for reply was extensible up to three months, provided a timely petition for extension of time and required fee were submitted.

A response to the final Office action was submitted November 18, 2004. The response, however, failed to place the application in

condition for allowance, as indicated in the Advisory Action mailed February 2, 2005.

The Advisory Action further indicated that the period of time to respond to the final Office action expired as of the mail date of the Advisory Action (February 2, 2005) or the date set in the final Office action (January 19, 2005), whichever is later. Accordingly, the period of time to submit a proper reply to the final Office action expired on February 2, 2005.

However, as the period of time to reply was extendible pursuant to 37 CFR 1.136(a), a proper response to final Office action could have been submitted as late as April 19, 2005 (accompanied by the appropriate extension of time fees).

Petitioner is under the mistaken impression that the Advisory Action reset the period of time for reply to the final Office action. As indicated in the Advisory Action, the period of time for reply ended January 19, 2005 or February 2, 2005, whichever date being later. Moreover, as indicated in both the final Office action and the Advisory Action, the period of time was extendible, however, in no event would the period of time for reply extend beyond six months from the mail date of the final Office action.

The period of time for reply to the final Office action continued to run from the mail date of the final Office action, not the mail date of the Advisory Action.

Accordingly, the reply submitted March 31, 2005 required a three-month extension of time. As only a two-month month extension of time was submitted, the application went abandoned.

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 and reply.

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

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand:	U.S. Patent and Trademark Office Customer Window Mail Stop Petition Randolph Building Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure

PTO/SB/64 (07-06)
Approved for use through 09/30/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JAN 08 2007

OFFICE OF PETITIONS

Edward L. Blendermann
87 Cypress Pond Road
Port Orange, FL 32128

In re Application of :
Blendermann : DECISION ON PETITION
Application No. 10/075,221 :
Filed: November 13, 2002 :
For: PROPRIOCEPTIVE DEVICE THAT :
CONTAINS NUTRIENTS FOR THE
TREATMENT OF STRATURAL DISEASES

This decision is in response to the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 filed October 2, 2006 and supplemented October 24, 2006.

The petition is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

This application became abandoned March 20, 2004 for failure to timely submit a proper reply to the final Office action mailed October 19, 2004. Notice of Abandonment was mailed May 4, 2005.

Petitioner continues to argue that a timely response (along with a petition for two-month extension of time) was timely submitted March 31, 2005.

Petitioner is advised that the response submitted March 31, 2005 is deemed untimely.

The final Office action, mailed October 19, 2004, set a three-month shortened period of time for reply, making a response due on or before January 19, 2005. The period of time for reply was extensible up to three months, or April 19, 2005, provided a timely petition for extension of time and required fee were submitted.

A response to the final Office action was submitted November 18, 2004. The response, however, failed to place the application in condition for allowance, as indicated in the Advisory Action mailed February 2, 2005.

The Advisory Action further indicated that the period of time to respond to the final Office action expired as of the mail date of the Advisory Action (February 2, 2005) or the date set in the final Office action, whichever sets forth the later period of time for reply.

The period of time for calculation of extensions of time is based on the time period for reply set forth in the final Office action, which set forth a three month shortened statutory period of time for reply and permitted up to three months additional time to reply, provided the appropriate petition and fee for extension of time were submitted.

Accordingly, the reply submitted March 31, 2005 required a three-month extension of time, to extend the period of time for reply from January 19, 2005 to April 19, 2005. As only a two-month month extension of time was submitted, the application went abandoned.

Extensions of time are not calculated from the mail date of the Advisory Action.

Even assuming arguendo that the March 31, 2005 reply were deemed timely, the application would still be abandoned as the reply submitted March 31, 2005 was not deemed a proper reply to the final Office action, as indicated in the Notice of Abandonment mailed May 4, 2005.

Furthermore, the application was deemed abandonment for failure to submit required claim fees. As to petitioner's contention that no claim fees are due, petitioner must make inquiry with the examiner of record as the undersigned is not authorized to calculate claim fees.

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 and reply.

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

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

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

By facsimile: (571) 273-8300

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P. O. BOX 272400
FORT COLLINS CO 80527-2400

MAILED

APR 15 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Pollard et al.
Application No. 10/075,300
Filed: February 15, 2002
For: DIGITAL CAMERAS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on March 25, 2003.

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

Petitioner has not met items (2) and (4) above. The undersigned, John W. Ryan, is not of record. The Patent Office also does not recognize withdrawal of a firm. Furthermore, there is no clear indication of a future correspondence address.

Accordingly, the request is **DENIED**.

Future communications from the Office will continue to be directed to the above-listed address unless a change of correspondence is specifically requested. A courtesy copy is being sent to the address listed below.

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

cc: CAROL CLAYTON
WILMER, CUTLER, & PICKERING
2445 M STREET, N.W.
WASHINGTON, D.C. 20037-1420

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

COPY MAILED

OCT 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Paul A. Kline	:	
Application No. 10/075,332	:	DECISION ON PETITION
Filed: February 14, 2002	:	TO WITHDRAW
Attorney Docket No. CRNT-0068	:	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 8, 2005.

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

A review of the file record indicates that the power of attorney to Vincent J. Roccia and those practitioners associated with customer number 20736 have been revoked by the assignee of the patent application on April 27, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Charles Smoot at 571-272- 3299.

for David Bucci
Petitions Examiner
Office of Petitions

cc: MANELLI DENISON & SELTER
2000 M STREET NW SUITE 700
WASHINGTON DC 20036-3307

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

COPY MAILED

JAN 0 4 2008

OFFICE OF PETITIONS

In re Application :
Handique et al. :
Application No. 10/075,371 : LETTER REGARDING PTA
Filed: February 15, 2002 :
Atty Docket No. 19662-03001 :

This letter is in response to the "REQUESTING FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)," filed November 9, 2007. Pursuant to their duty of good faith and candor, applicants disclose that they believe the patent term adjustment calculation was done incorrectly.

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

On August 9, 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 403 days. Applicants state that pursuant to 37 CFR §1.704(b), the time period should be reduced 61 days from April 23, 2006 to June 23, 2006 for the submission of the Request for Continued Examination (RCE) submitted on June 23, 2006.

A review of the application history supports a conclusion that the number of days adjusted for Office delay and the number of days reduced for applicants' delay is correct. A Notice of Appeal was filed on February 23, 2006 three months and 92 days after the mailing of the final Office action of August 23, 2005. Pursuant to 37 CFR 1.704(b), a period of reduction of 92 days was entered. The RCE was then filed on April 23, 2006. The filing of a RCE, in lieu of, an appeal brief after the filing of a notice of appeal is not a failure to engage within the meaning of §§ 1.704(b) or 1.704(c)(8). Accordingly, no further reduction was entered for the filing of the RCE. Applicants continue to be under a duty to advise the Office of any error in according too much PTA.

In view thereof, the initial determination of Patent Term Adjustment remains four hundred three (403) 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. It is however noted that applicants were inadvertently charged a $230.00 extension of time fee, which will be refunded to deposit account no. 06-1050.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and 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 Petitions Attorney Charlema Grant at (571) 272-3215.

Nancy Johnson
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, DC 20231
www.uspto.gov

MAR 27, 2003

PARTEQ Innovations
Room 1625, Biosciences Complex
Queen's University
Kingston ON K7L 3N6 CA CANADA

Paper No. 7

In re Application of Soboleski et al.	:	
Serial No. : 10/075,373	:	DECISION ON PETITION
Filed : February 15, 2002	:	TO ACCEPT
For : METHOD AND DEVICE FOR	:	COLOR DRAWINGS
TREATING SCOLIOSIS	:	

This is a decision on petitioner's request filed February 15, 2002 to accept color drawings.

Under 37 CFR 1.84(b)(2) color photographs will be accepted in utility applications if: (a) a fee as set forth in 37 CFR 1.17(h) is submitted; (b) three (3) sets of color drawings are provided; (c) a black and white photocopy accurately depicting, to the extent possible, the subject matter shown in the color drawing is submitted; and (d) the specification is amended by inserting as the first paragraph of the brief description of the drawings the following language:

> The patent or application file contains at least one drawing executed in color.
> Copies of this patent or patent application publication with color drawing(s)
> Will be provided by the Office upon request and payment of the necessary fee.

Applicant has complied items (c) and (d) of the above requirements. Accordingly the petition to accept color drawings is dismissed.

Summary: Petition to accept color drawings dismissed.

Kevin P. Shaver

Kevin P. Shaver, SPE
Art Unit 3732
Phone: (703) 308-2582

ks/03/26/03

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.
10/075,373	02/15/2002	Donald A. Soboleski	1999-012-02US	4280

7590 01/15/2004

PARTEQ Innovations
Room 1625, Biosciences Complex
Queen's Universiry
Kingston, ON K7L 3N6
CANADA

EXAMINER
RAMANA, ANURADHA

ART UNIT	PAPER NUMBER
3732	14

DATE MAILED: 01/15/2004

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

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

PARTEQ Innovations
Room 1625, Biosciences Complex
Queen's University
Kingston ON K7L 3N6 CA CANADA

Paper No. 14

In re Application of Soboleski et al.	:	
Serial No. : 10/075,373	:	DECISION ON PETITION
Filed : February 15, 2002	:	TO ACCEPT
For : METHOD AND DEVICE FOR	:	COLOR DRAWINGS
TREATING SCOLIOSIS	:	

This is a decision on petitioner's request filed September 12, 2003 to accept color drawings.

Under 37 CFR 1.84(b)(2) color photographs will be accepted in utility applications if: (a) a fee as set forth in 37 CFR 1.17(h) is submitted; (b) three (3) sets of color drawings are provided; (c) a black and white photocopy accurately depicting, to the extent possible, the subject matter shown in the color drawing is submitted; and (d) the specification is amended by inserting as the first paragraph of the brief description of the drawings the following language:

> The patent or application file contains at least one drawing executed in color.
> Copies of this patent or patent application publication with color drawing(s)
> Will be provided by the Office upon request and payment of the necessary fee.

Applicant has complied with the above requirements. Accordingly the petition to accept color drawings is granted.

Summary: Petition to accept color drawings granted.

Kevin P. Shaver

Kevin P. Shaver, SPE
Art Unit 3732
Phone: (703) 308-2582

ks/03/26/03

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

#3
DW

MAR 22 2004

MAILED

MAR 22 2004

OFFICE OF THE DIRECTOR
TC 3600

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

In re application of
Hugh W. Johnston
Application No. 10/075,384
Filed: February 15, 2002
For: METHOD OF PROVIDING LODGING AND VEHICLE RENTALS FOR TRAVELERS

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on February 15, 2002 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 declaration signed by Mr. Johnston indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/mjz: 3/16/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-24-05

TO SPE OF : ART UNIT 2667

SUBJECT : Request for Certificate of Correction on Patent No.: 6,845,093

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

Monique
Certificates of Correction Branch

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

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

Comments:

SPE

2667
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Off

PTO/SB/44 (04-04)
Approved for use through 04/30/2007.
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 Page1 of 1

PATENT NO. : US 6,845,093

DATED : January 18, 2005

INVENTOR(S) : Dick 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

At section (56), page 1, right column, FOREIGN PATENT DOCUMENTS, line 1, insert– WO 9849857 11/98 PCT–.

IN THE CLAIMS

In claim 2, at column 6, line 28, after the word "indicating", delete "an".

O.K. to enter
11/30/05

MAILING ADDRESS OF SENDER:

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

PATENT NO. _____

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.

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
CENTRAL FAX CENTER
MAR 0 8 2005

In the **PATENT** of:			
	Dick et al.		
Patent No.:	6,845,093		
Issued:	January 18, 2005	Our File:	I-2-142.3US
Appln. No.:	10/075,410	Date:	March 8, 2005
Filed:	February 14, 2002		
For: USER EQUIPMENT FOR COMMUNICATING USING A SELECTED CODE OVER A COMMON PACKET CHANNEL			

REQUEST FOR CERTIFICATE OF CORRECTION

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

Sir:

A Certificate of Correction under 35 U.S.C. §§ 254, 255 and 37 C.F.R. §§1.322, 1.323 is requested for U.S. Patent No. 6,845,093. Correction of the following errors is requested.

ON THE TITLE PAGE

At section (56), page 1, right column, FOREIGN PATENT DOCUMENTS, line 1, insert-- WO 9849857 11/98 PCT--.

Patentee: Dick et al.
Patent No.: 6,845,093

IN THE CLAIMS

In claim 2, at column 6, line 28, after the word "indicating", delete "an".

REMARKS

Patentees believe that the above errors are of such a nature as to justify the issuance of a Certificate of Correction. Patentees have enclosed a completed Certificate of Correction Form PTO/SB/44.

Please charge the surcharge fee of $100.00 to the Deposit Account of InterDigital Communications Corporation, Deposit Account No. 09-0435.

Patentee(s) respectfully request that the Certificate of Correction be issued.

Respectfully submitted,

Dick et al.

By

Dimitri P. Dovas
Registration No. 51,627
(215) 568-6400

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

DPD/vs

PAGE 3/4 * RCVD AT 3/8/2005 12:33:11 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/1 * DNIS:8729306 * CSID:2155686499 * DURATION (mm-ss):01-24

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

Daniel R. Pote, Esq.
SNELL & WILMER L.L.C.
One Arizona Center
400 East Van Buren
Phoenix AZ 85004-2202

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MAR 2 5 2005

OFFICE OF PETITIONS

In re Application of

Michael Brooks

Application No. 10/075,422

Filed: February 13, 2002

Attorney Docket No. 37829.0300/01-0609

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply file an appeal brief within two months after the filing of a Notice of Appeal. The Notice of Appeal was filed on April 9, 2004. No further filings were received relative to the Notice of Appeal. The application became abandoned on June 10, 2004. A Notice of Abandonment was mailed on December 6, 2004.

The instant petition was accompanied by a "Response and Amendment" and a "Transmittal" in which petitioner declares that these filings should be treated as a Request for Continued Examination pursuant to 37 CFR 1.114. It is noted that no "Request for Continued Examination Transmittal" was found with the petition papers, however; because the fee and submission required by 37 CFR 1.114 did accompany the petition, the documents received will be recognized as a Request for Continued Examination pursuant to 37 CFR 1.114.

Deposit account 19-2814 will be charged $795.00 for the fee for the Request for Continued Examination.

The application is being forwarded to Technology Center 2800, GAU 2812 for further processing.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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OFFICE OF PETITIONS

DAVIS WRIGHT TREMAINE LLP/LOS ANGELES
865 FIGUEROA STREET
SUITE 2400
LOS ANGELES, CA 90017-2566

In re Application of
Kent D. Taylor, et al.
Application No. 10/075,425
Filed: February 12, 2002
Attorney Docket No. 67789-716

ON PETITION

This is a decision in response to the petition under 37 CFR 1.137(b), filed June 15, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely file an Appeal Brief within two months of the December 19, 2005 date of the Notice of Appeal. A Notice of Abandonment was mailed on August 25, 2006. In response, on June 15, 2007, the present petition was filed.

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

It is noted that an amendment was included with the petition filed on June 15, 2007. However, the amendment is considered non-responsive, since it did not place the application in condition

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] 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.

for allowance. See the attached Advisory Action. The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

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

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

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVIS WRIGHT TREMAINE LLP/Los Angeles
865 FIGUEROA STREET
SUITE 2400
LOS ANGELES, CA 90017-2566

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APR 24 2008

In re Application of :
Kent D. Taylor, et al. :
Application No. 10/075,425 : ON PETITION
Filed: February 12, 2002 :
Attorney Docket No. 67789-716 :

This is a decision on the renewed petition, filed November 20, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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.

Accordingly, the petition is **GRANTED**.

This application is being referred to Technology Center AU 1634 for appropriate action by the Examiner in the normal course of business on the amendment received November 20, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Paper No. 17

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

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JAN 06 2004

OFFICE OF PETITIONS

In re Application of
Ogawa et al.
Application No. 10/075,430
Filed: February 13, 2002
Attorney Docket No. FUJI 19.448

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 10, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed May 8, 2003. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained on October 7, 2003. Accordingly, this application became abandoned on October 9, 2003.

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

The file is now being forwarded to Technology Center 2600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

Sherry Bombley for

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

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 7-24-02

2 S rial/Patent # 10/075432

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
	Petition		6-6-02	$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130

8 TO BE REFUNDED BY:

	Treasury Check
✓	Credit Deposit A/C #:

9 06--1050

10 REASON:

	Overpayment
	Duplicate Payment
	No Fee Due (Explanation):

Petition dismissed as moot.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Karen Creasy TITLE: Pets. Exm.

SIGNATURE: Karen Creasy PHONE: 305-8859

OFFICE: DAC for Patents

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alice Kelly DATE: 7/29/02

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

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

FORM PTO 1577
(01/90)

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Paper No.

FISH & RICHARDSON P.C.
60 S. Sixth St.
3300 Dain Rauscher Plaza
Minneapolis MN 55402

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OCT 0 7 2004

OFFICE OF PETITIONS

In re Patent No. 6,751,366	:	
Wei-Zhong Li	:	DECISION ON REQUEST FOR
Issue Date: June 15, 2004	:	RECONSIDERATION OF
Application No. 10/075,432	:	PATENT TERM ADJUSTMENT
Filed: February 12, 2002	:	and
Attorney Docket No. 13854-010001	:	NOTICE OF INTENT TO
	:	ISSUE CERTIFICATE OF
	:	CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)," filed August 4, 2004. Patentee requests reconsideration of the Patent Term Adjustment to decrease Applicant Delay from 120 days to 5 days and to increase total PTA from 87 to 202 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 one hundred ninety-eight **(198)** days.

On June 15, 2004, the above-identified application matured into U.S. Patent No. 6,751,366. The instant request for reconsideration filed August 4, 2004 was timely filed within two (2) months of the date the patent issued. See § 1.705(d)(revised Apr. 22, 2004, effective May 24, 2004)(69 FR 21704). The Patent issued with a revised Patent Term Adjustment of 87 days. This revised determination was calculated as follows: The initial determination of PTA of 132 days was increased by 75 days, pursuant to § 1.702(a)(4), for Office delay in issuing the patent 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. However, the determination was reduced by 9 days, pursuant to § 1.704(b), for applicant delay in paying the Issue Fee and by 111 days, pursuant to § 1.704(c)(10), for the filing of a miscellaneous incoming letter after the mailing of the notice of allowance.

Patentee requests removal of four (4) days of applicant delay due to postal delay in receipt of the issue fee payment. Patentee asserts that the response to the notice of allowance was timely, as the three-month period for reply ended on Saturday, November 22, 2003. Patentee states that allowing for the three (3) business days of mail delay, consistent with the Official Gazette Notice dated January 15, 2002, their response should have been received no later than November 27, 2003 (not December 1, 2003).

Patentee further disputes the reduction of 111 days, citing 1247 OG 111 (Notice dated June 26, 2001). Specifically, patentee states that the paper filed December 1, 2003 was a Response to Reasons for Allowance, and as such, its filing does not constitute a failure to engage in reasonable efforts to conclude prosecution within the meaning of § 1.704(c)(10).

Patentee's arguments have been considered, but not found wholly persuasive. The reduction of 9 days is correct. There is no basis for reinstatement of 4 days. Patentee is advised that the OG Notice dated January 15, 2002, provided for reinstatement of patent term adjustment for mail delay only as to replies mailed on or after October 13, 2001 and no later than December 1, 2001 (as shown on a certificate of mailing under 37 CFR 1.8). Otherwise, § 1.704(b) and § 1.703(f) apply. Pursuant to § 1.704(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.

Furthermore, § 1.703(f) provides that "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000). Accordingly, the patent term was properly reduced by 9 days, the number of days beginning on the day after the date that is three months after the date of mailing of the notice of allowance, November 22, 2003, and ending on the date the Issue Fee payment was received, December 1, 2003.

As to the reduction of 111 days, patentee is correct. By Official Gazette Notice dated June 26, 2001, the Director has advised applicants and patentees that the filing after the mailing of a Notice of Allowance of a response to the examiner's reasons for allowance will not be considered a "failure to engage

in reasonable efforts" to conclude processing or examination of an application and will not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10) *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance*, 1247 OG 111 (June 26, 2001). A review of the application record reveals that the reduction of 111 days was based on the filing after allowance of the "Comments on Statement of Reasons for Allowance" filed December 1, 2003. Thus, it is concluded that the reduction of 111 days was incorrect.

In view thereof, the revised patent term adjustment indicated in the patent should have been one hundred ninety-eight **(198)** 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 NINETY-EIGHT (198)** 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: Copy of DRAFT Certificate of Correction

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 3, 2006

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/4075442 Patent No.: 6,855,732

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

1625

Art Unit

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HUMAN GENOME SCIENCES INC
14200 SHADY GROVE RD
ROCKVILLE MD 20850

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DEC 1 6 2004

OFFICE OF PETITIONS

In re	:
Ruben, et al.	: DECISION REGARDING
Application No. 10/075,446	: PATENT TERM ADJUSTMENT
Filed: February 15, 2002	:
Attorney Docket No. PF155C1D1	:

This decision is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT CALCULATION," filed October 20, 2004, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request is **DISMISSED**.

On August 24, 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 three hundred ninety-three (393) days. On October 20, 2004, Applicants submitted the instant "LETTER REGARDING PATENT TERM ADJUSTMENT CALCULATION". Applicants state that they believe there was an error in the patent term adjustment calculation, in particular because a Terminal Disclaimer was filed on July 15, 2004.

The Office initially determined a patent term adjustment of three hundred ninety-three (393) days based on an adjustment for PTO delay of four hundred nineteen (393) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by zero days of applicant delay.

The provisions of § 154(b), for adjustment due to examination delay, apply to original applications, other than designs, filed on or after May 29, 2000. The Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers and those that do not. Nor does the Office undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 C.F.R. § 1.703(g), it is indicated in the patent that the patent term adjustment indicated therein is subject to any disclaimer. Moreover, it is also stated therein that the patent is subject to a terminal disclaimer.

Receipt of the PTOL-85b, submitted with the instant "LETTER REGARDING PATENT TERM ADJUSTMENT CALCULATION", is acknowledged. The $1,370 issue fee and the $300 publication fee have been charged to Deposit Account No. 08-3425, as authorized.

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

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery A. Fries
for

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

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

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OFFICE OF PETITIONS

In re Application of :
Kazunori Kobayashi :
Application No. 10/075,458 : ON PETITION
Filed: February 15, 2002 :
Attorney Docket No. 219656US2

This is a decision on the petition filed, August 11, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 21, 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 Irvin Dingle at (571) 272-3210.

This matter 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 Amendment.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,593,302	2003-07-15	10/075,466	2002-02-13	300622003801

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael G. Smith/	Date (YYYY-MM-DD)	2007-07-26
Name	Michael G. Smith	Registration Number	44422

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. 6593302
Issue Date: July 15,2003
Application No. 10075466
Filed: February 13,2002
Attorney Docket No. 300622003801

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

This is a decision on the electronic petition, filed July 26,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 26,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

SPE: J. Louis

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/15/07

TO SPE OF : ART UNIT 2112

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/675,492 Patent No.: 7136951

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: _____

MARK H. RINEHART
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

JUN 04 2007

SPE

2111
Art Unit

SPE: J. Louis

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/15/07

TO SPE OF : ART UNIT 2112

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/075,492 Patent No.: 7136951

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: _____

MARK H. RINEHART
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

JUN 04 2007

SPE

2111
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

THOMSON LICENSING LLC
P.O. BOX 5312
TWO INDEPENDENCE WAY
PRINCETON NJ 08543-5312

COPY MAILED

JUL 2 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Amshoff et al.	:	
Application No. 10/075,500	:	DECISION ON PETITION
Filed: February 14, 2002	:	
Attorney Docket No. PU010080	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 16, 2009, as required by the Notice of Allowance and Fee(s) Due mailed March 16, 2009. Accordingly, the date of abandonment of this application is June 17, 2009. A Notice of Abandonment was mailed June 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 payment of the issue fee of $1,510.00 and publication fee of $300.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Mark Stephen Amshoff	: DECISION ON REQUEST FOR
Patent Number	: 7584498	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/075,500	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/14/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2283** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 11, 2006

TO SPE OF : ART UNIT 3762

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/075518 Patent No.: 7,008,397

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

ANGELA D. SYKES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Woodcock Washburn LLP
46th Floor
One Liberty Place
Philadelphia, PA 19103

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SEP 23 2002

OFFICE OF PETITIONS

In re Application of Goldthwaite, et al. Application No. 10/075,519 Filed: February 13, 2002 Atty Docket No. MSFT-0738/183225.1	: : : : :	DECISION GRANTING PETITION

This is a decision on the "Petition to Accord Correspondence Filing Date Shown on Express Mail Label 'Date-In' (37 C.F.R. 1.10(c))," filed July 2, 2002, requesting that the above-identified nonprovisional application be accorded a filing date of February 13, 2002, rather than the presently accorded filing date of February 15, 2002.

Applicants maintain that the above-identified application was deposited in the Express Mail Post Office to Addressee service of the USPS, pursuant to § 1.10 on February 13, 2002, and thus, is entitled to a filing date of February 15, 2002. In support thereof, applicants submit:

- a statement by patent attorney Michael J. Swope as to when the discrepancy in filing date was discovered and to show that the petition was filed promptly thereafter;
- a true copy of the "Express Mail Post Office to Addressee" mailing label No. EL695382520US; and
- a true copy of the Patent Application Transmittal Letter, bearing "Express Mail" mailing label number EL695382520US thereon.

Having reviewed the evidence, it is concluded that petitioner has shown a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by other official USPS notation. The petition was filed promptly within the meaning of §1.10(c)(1). The transmittal submitted is a true copy of the transmittal present in the application file, and both bear the "Express Mail" mailing label number. Thus, petitioner has shown that this number was placed on the correspondence prior to the original mailing date. The "date-in" on the "Express Mail" mailing label submitted appears to be February 13, 2002, but is not entirely legible. Nonetheless, the label also bears an official USPS date stamp of February 13, 2002. Moreover, the USPTO's USPS Express Mail Information Database record shows that the mailing under "Express Mail" mailing label No. EL695382520US was accepted by the USPS at 4:32 pm on February 13, 2002 (copy enclosed).

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

No petition fee is necessary. The petition fee has been refunded to Deposit Account No. 23-3050, as authorized.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to February 13, 2002, and issuance of a corrected filing receipt.

Telephone inquiries specific to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: USPTO's USPS Express Mail Information Database record

#7

USPTO's USPS Express Mail Information Database

EXPRESS MAIL
UNITED STATES POSTAL SERVICE

Express Mail Number: **EL695382520US**

Origin ZIP: 98154

Weight: 02 lbs. 00 ozs.

Postage Paid: $016.25

DELIVERY CONFIRMATION

Date and Time* Package was accepted by USPS:	02/13/2002	04:32 pm
Attempted Delivery Date and Time:	//	
Actual Delivery Date and Time:	02/15/2002	11:41 am

***Also referred to as "Date In"**

Print Record | Preview Report | Print Report | Back

Saturday, September 21, 2002 05:15 PM

UNITED STATES 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

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

COPY MAILED
JUN 2 9 2004
OFFICE OF PETITIONS

In re Application of :
Michele M. Helwig :
Application No. 10/075,530 :
Filed: February 13, 2002 :
Attorney Docket No. 040230-000100US :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 14, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 8, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 9, 2003.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail future correspondence solely to the address of record.

The application file is being forwarded to Technology Center 3600, Art Unit 3643 for further processing.

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

Retta Williams

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

cc: Melissa A. Haapala
Townsend and Townsend and Crew LLP
1200 17th Street, Suite 27
Denver, CO 80202

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

MAY 16 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Charles A. Wilkinson, Esq.
68 East Broad Street
P.O. Box 1426
Bethlehem PA 18016-1426

In re application of:
Kevin Ryan
Application No. 10/075,573
Filed: February 13, 2002
For: **TELECOMMUNICATIONS AND CELLULAR TELEPHONE HOMEPAGE CALL SCREENING CONTROL CENTER**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on March 30, 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.

The request to withdraw as attorney first, does not indicate a customer number for any withdrawing attorneys. Second, the request to withdraw does not appear to have been executed by an attorney of record.

Accordingly, the request is **DENIED.**

Given that the request to withdraw does not appear to have been executed by an attorney of record, the request to change correspondence address also has not been made. Although a courtesy copy of this decision will be mailed to the requested change of address location, all future communications from the Office will continue to be directed to the address listed above until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

It is further noted that a non-final Office action was mailed September 10, 2004. There is no evidence of a proper response to the outstanding Office action. Therefore, if applicants have not submitted a proper response within the maximum allowable time period, inclusive of petitions for extension of time, then the current application is technically abandoned.

Finally, it is also noted that if applicant/assignee desired to remove an attorney from the record, then a Revocation of Power of Attorney would be appropriate.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

Cc: Kevin Ryan
Ryan Design Group
6402 Ridge Road
Zionsville, PA 18092

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

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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FEB 23 2004

OFFICE OF PETITIONS

In re Application of
Frank Joseph Kalas
Application No. 10/075,594
Filed: February 15, 2002
Attorney Docket No. 1330.1085

ON PETITION

This is a decision on the petition filed February 5, 2004 under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.[1]

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

The application was held abandoned on June 5, 2002, for failure to timely submit a response to the Notice to File Missing Parts mailed April 4, 2002. A two (2) month period for reply was set and no extensions of time to file the response were believed to have been requested or granted. Accordingly, a Notice of Abandonment was mailed January 14, 2004.

Petitioner asserts that a response (signed oath/declaration, fourteen (14) sheets of drawings, assignment and recordation form cover sheet) were filed on May 15, 2002.

In support, petitioner has submitted, copies of the oath/declaration, fourteen (14) sheets of drawings, assignment and recordation form cover sheet as well as an itemized post card receipt, with a United States Patent & Trademark Office date stamped May 15, 2002.

Accordingly, the Notice of Abandonment mailed on January 14, 2004 is hereby withdrawn. No petition fee is due and none has been charged however the surcharge for late filing of the oath and declaration will be charged to deposit account no. 19-3935 as authorized in the Response to Notice to File Missing Parts filed May 15, 2002 and the instant petition.

The application 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 Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]The petition is titled "Petition to Revive" but a withdrawal of the abandonment is sought, thus the petition is properly treated under 37 CFR 1.181.

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

Stephen E. Feldman
STEPHEN E. FELDMAN, P.C.
12 East 41st Street - Suite 1302
New York, NY 10017

MAR 10 2003

In re Application of:
Isador Farash
Application No. 10/075,645
Filed: February 13, 2002
Docket No. 0107-0974-3R

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 February 19, 2003.

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

The request meets all the above stated requirements. The request was signed by Stephen E. Feldman on behalf of himself. The is no outstanding Office action for which a response is necessary.

The request is **APPROVED**.

The are no attorneys of record at this time.

All future communications from the Office will be directed to the inventor, Isador Farash, at the address indicated below until otherwise notified by applicant.

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

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

cc: Isador Farash
40 Ruta Court
South Hackensack, NJ 07606

UNITED STATES PATENT AND TRADEMARK OFFICE

A-29-08

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

Patent No. :7,336,380 B2
Ser. No. : 10/075,670
Inventor(s) : Peter Eisele
Issued : February 26, 2008
Title : RASTER GENERATIONSYSTEM AND METHODOF PROCESSING RASTER DATA
Docket No. : A-3172

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 or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

Lerner Greenberg Stemer LLP
P.O. Box 2480
Holywood, FL 33020

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

Pfizer Inc.
150 East 42nd Street
5th Floor - Stop 49
New York, NY 10017-5612

COPY MAILED

JUL 0 9 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
James G. Boyd, et. al. :
Application No. 10/075,686 :
Filed: February 14, 2002 :
Attorney Docket No. PC23001A :

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 16, 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 August 16, 2003.

In response, petitioner submitted with the instant petition $1,330 for the petition to revive fee, and an amendment.

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.

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

The petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 1654, for review of the amendment filed with the instant petition.

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

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

CC: Mark J. Cohen
Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City, NY 11530

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK, NY 10017-5612

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SEP 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Boyd, et al. :
Application No. 10/075,686 :
Filed: February 14, 2002 :
Attorney Docket No. PC23001A :

ON PETITION

This is a decision on the petition under 37 C.F.R. 1.137(b), filed August 29, 2005, to revive the above identified application.

The petition is dismissed.

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

This application became abandoned for failure to timely reply within three months to the final Office action mailed December 2, 2004. Accordingly, this application became abandoned on March 3, 2005. A Notice of Abandonment was mailed on August 10, 2005.

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 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, 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(d).

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

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 2, 2004. Accordingly, in a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be one of the following:

-a Notice of Appeal and appeal fee;

-an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise prima facie places the application in condition for allowance;

- the filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995; or

- the filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).

The amendment, filed August 29, 2005, has been reviewed by the Examiner, and it does not place the application in condition for allowance. As such, the required reply has not been submitted and the petition must be dismissed.

A courtesy copy of the PTOL-303 Advisory Action is attached to the instant decision. However, please note, this courtesy copy of the advisory form PTOL 303 merely serves as an advisory notice to the Office of Petitions regarding the decision of the examiner on the amendment after final rejection.

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

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

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

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

Attachment: Courtesy copy of PTOL-303

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PFIZER INC.
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK, NY 10017-5612

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DEC 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Boyd et al	:	
Application No. 10/075,686	:	ON PETITION
Filed: February 14, 2002	:	
Attorney Docket No. PC23001A	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition under 37 CFR 1.137(b), filed on August 29, 2005 was dismissed since a proper reply to the final Office action of December 2, 2004 had not been submitted.

This renewed petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has now supplied the reply in the form of a continuing application under 37 CFR 1.53(b). The petition fee of $1,500 and a proper statement of unintentional delay were received on August 29, 2005. Accordingly, the filing of a proper reply to the final Office action of December 2, 2004 is accepted as having been unintentionally delayed.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/254,971, filed October 21, 2005.

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORRIS MANNING & MARTIN LLP
1600 Atlanta Financial Center
3343 Peachtree Road, NE
Atlanta, GA 30326-1044

MAR 2 2004

In re Application of:	:	
Patrick J. Toomey	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Application No. 10/075,728	:	
Filed: February 12, 2002	:	
Attorney Docket No. 9925-36928	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed April 10, 2003.

The request is **dismissed** as moot.

A review of the application file record reveals that a proper revocation of power of attorney was filed on February 26, 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot and must be dismissed.

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

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

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

cc: Eliza I. Stefaniw
P. O. Box 70110
Washington DC 20024

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Paper No. 4

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JUL 0 2 2002

OFFICE OF PETITIONS

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

In re Application of :
McKirchy, et al. :
Application No. 10/075,730 : ON PETITION
Filed: February 14, 2002 :
Attorney Docket No.: P02293US2 :

This is a decision on the petition filed May 20, 2002 in response to the Notice of Incomplete Nonprovisional Application ("Notice") mailed March 7, 2002.

The Notice stated that the application had not been accorded a filing date because the application was deposited without drawings as required under 35 USC 113. The Notice indicates the filing date of the application will be the date of receipt of the omitted drawings. The Notice indicates that any assertion that the omitted drawings were submitted, or are not necessary for a filing date, requires applicant to submit a petition along with accompanying petition fee.

Petitioner argues that the application as filed included five (5) sheets of sheets as indicated on the return receipt postcard date stamped by the Office acknowledging receipt of the five (5) sheets of drawings. Petitioner has included a copy of the postcard along with a copy of the five (5) sheets of drawings.

The original five (5) sheets of drawings submitted with the application papers have not been located. However, in view of the evidence presented, the petition to include the five (5) sheets of drawings in the application as originally filed is **GRANTED**.

No fee is due in connection with this matter. The previously submitted $130.00 petition fee has been refunded to deposit account No. 26-0084 as authorized in the instant petition.

Since the original five (5) sheets of drawings cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

This application will be forwarded to Office of Initial Patent Examination for further processing with a filing date of February 14, 2002.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,733	02/14/2002	Ulrich Behrendt	21102 US	1652

151 7590 03/16/2005
HOFFMANN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY, NJ 07110

EXAMINER
MENON, KRISHNAN S

ART UNIT	PAPER NUMBER
1723	

DATE MAILED: 03/16/2005

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

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MAR 15 2005

In re Application of	:	
BEHRENDT, ULRICH	:	NOTICE OF WITHDRAWAL
Serial No. 10/075733	:	FROM ISSUE
Filed: February 14, 2002	:	UNDER 37 CFR 1.313(b)
For: HOLLOW FIBER MEMBRANE MODULE	:	

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 Wanda Walker at (571) 272-1151.

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

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

CC: Allowed Files

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JOSEPH S .TRIPOLI
THOMSON MULTIMEDIA LICENSING INC.
2 INDEPENDENCE WAY
P. O. BOX 5312
PRINCETON NJ 08543-5312

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OFFICE OF PETITIONS

In re Application of	:	
Stauder et al.	:	
Application No. 10/075,737	:	ON PETITION
Filed: February 14, 2002	:	
Attorney Docket No. PF010018	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 24, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ATTN: LEGAL-MANUFACTURING
KINETIC CONCEPTS, INC.
P.O. BOX 659508
SAN ANTONIO TX 78265-9508

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JAN 17 2006

OFFICE OF PETITIONS

In re Application of	:
Royce Johnson et al	: DECISION ON PETITIONS
Application No. 10/075,743	:
Filed: February 14, 2002	:
Attorney Docket No. VAC.700	:

This is a decision on the petition, filed January 9, 1996, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition filed January 9, 2006, which is being treated as a petition under 37 CFR § 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/269,657, filed February 16, 2001.

The petitions are **Granted**.

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

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

Petitioner is advised that the issue fee paid on September 27, 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]

---

[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).

A petition for acceptance of a claim for late priority under 37 CFR § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR § 1.78(a)(5)(ii). In addition, the petition under 37 CFR § 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR §1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after expiration of the period specified in 37 CFR § 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR §1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/269,657, which was filed on February 16, 2001, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR § 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR § 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §119(e) to the above-noted, prior-filed application satisfies the conditions of 37 CFR §1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applicationnd 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course,

consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3743 for appropriate action on the RCE and the Amendment submitted January 9, 2006, including consideration by the examiner of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional Application No. 60/269,657, filed February 16, 2001.

Karen Creasy

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

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,786	02/13/2002	John E. Holland	3781-002 (03781.0024.1)	9809

26158 7590 05/09/2005

WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
P.O. BOX 7037
ATLANTA, GA 30357-0037

EXAMINER
MAYO III, WILLIAM H

ART UNIT	PAPER NUMBER
2831	

DATE MAILED: 05/09/2005

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

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WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
P.O. BOX 7037
ATLANTA GA 30357-0037

MAY - 3 2005

In re Application of:
John E. Holland et al.
Serial No.: 10/075,786
Filed: February 13, 2002
Attorney Docket No.: 3781-002 (03781.0024.1)

DECISION *SUA SPONTE*
WITHDRAWING HOLDING
OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A decision on appeal by the Board of Patent Appeals and Interferences (BPAI) was mailed on March 30, 2005 affirming the final rejections by the examiner of all pending claims in the application.. A Notice of Abandonment was mailed on April 7, 2005.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated, the holding of abandonment withdrawn and the application restored to pending and under appeal status in view of the fact that the appellant has two months from the date of the BPAI decision to seek review of the decision by the court or to commence a civil action. Further the appellant has informed the examiner that an action will be taken by the appellant by May 30, 2005, the expiration date of the two-month time period from the date of the BPAI decision.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Richard K. Seidel, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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DW 07-02

Sailaja Deverankonda
1315 Morreene Road, Apt. 20H
Durham, NC 27705

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JUL 1 8 2002

OFFICE OF PETITIONS

In re Application of
Landers et al.
Application No. 10/075,804
Filed: 24 October, 2001
For:AUTOMATED HORIZONTALLY STRUCTURED MANUFACTURING PROCESS DESIGN MODELING

Dear Ms. Deverankonda:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Douglas I. Wood at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

for D Wood

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

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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JUL 1 8 2002

OFFICE OF PETITIONS

In re Application of	:
Landers et al.	:
Application No. 10/075,804	: DECISION ACCORDING STATUS
Filed: 24 October, 2001	: UNDER 37 CFR 1.47(a)
Attorney Docket No. DP-301830	:

This is in response to the petition filed under 37 CFR 1.47(a) on 23 May, 2002.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor cannot be found. Specifically, petitioners have shown, via the statements of petitioners' registered patent attorney, Troy LaMontague, and the statement of Joshua Haines, that a copy of the application sent to the non-signing inventor's last known address by Federal Express was returned to petitioners' counsel because the non-signing inventor no longer lived at that address. Despite additional attempts to determine a more recent address for the non-signing inventor, the non-signing inventor could not be located.

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

The Office is construing the address listed in the Federal Express Delivery Information: 1315 Morreene Road, Apt. 20H, Durham, NC 27705, rather than the address listed in the petition, as the last known address of the non-signing inventor. Petitioners **must** notify the Office if this is an incorrect interpretation.

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

The application is being forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

Katten Muchin Rosenman & LLP
15th Fl.
575 Madison Avenue
New York NY 10022-2511

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JAN 08 2007

OFFICE OF PETITIONS

In re Patent No. 7,106,761	:	DECISION ON REQUEST
Shiota et al.	:	FOR RECONSIDERATION OF
Issue Date: September 12, 2006	:	PATENT TERM ADJUSTMENT
Application No. 10/075,853	:	and
Filed: February 13, 2002	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. FUJA 19.446	:	CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705," filed August 31, 2006. Patentees request that the patent term adjustment indicated in the patent be corrected from eight hundred ninety-one (891) days to nine hundred thirty-eight (938) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of nine hundred thirty-eight (938) days.

On September 12, 2006, the above-identified application matured into U.S. Patent No. 7,106,761. The instant request for reconsideration filed August 31, 2006 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 891 days. Patentee disputes the reduction of 47 days due to "Workflow-

Drawings finished" as no drawings were filed after the mailing of the notice of allowance.

A review of the PALM calculations for this application reveals that the initial determination of PTA of 938 days was reduced by 47 days for applicants' submission of drawings after the mailing of the notice of allowance. See 37 C.F.R. § 1.704(c)(10). However, a review of the application record supports a conclusion that no drawings (or any other paper, aside from the instant petition and payment of the issue fee) were filed in this application after the mailing of the notice of allowance.

In view thereof, the patent term adjustment indicated in the patent should have been nine hundred thirty-eight (938) days.

The $200.00 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 50-1290, as authorized. 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 NINE **HUNDRED THIRTY-EIGHT (938)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,106,761 B2

DATED : September 12, 2006

INVENTOR(S) : Shiota et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (891) days

Delete the phrase "by 891" and insert – by 938 days--

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IBM CORPORATION
PO BOX 12195
DEPT YXSA, BLDG 002
RESEARCH TRIANGLE PARK, NC 27709

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OFFICE OF PETITIONS

In re Application of	:	
Meserth, et al.	:	
Application No. 10/075,861	:	DECISION ON PETITION
Filed: February 14, 2002	:	
Attorney Docket No. RPS920010150US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 25, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a timely and proper reply to the final Office action mailed October 31, 2005, which set a three (3) month shortened statutory period for reply. No response was received within the allowable period and the application became abandoned on February 1, 2006. A Notice of Abandonment was mailed on June 7, 2006.

The Notice of Appeal, filed May 25, 2006, has been entered and made of record. Accordingly, the two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The application file is being forwarded to Technology Center 2100, GAU 2179 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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RATNERPRESTIA
P.O. BOX 1596
WILMINGTON, DE 19899

AUG 0 9 2004

In re Application of	:	
Reinhard Noack	:	
Application No. 10/075,873	:	ON PETITION
Filed: February 13, 2002	:	
Attorney Docket No. ANI-100US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 2004, to revive the above-identified application.

The petition is **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)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to submit the issue/publication fee in a timely manner in reply to the Notice of Allowance mailed November 13, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 14, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee 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)). This petition lacks item (1) above.

The above-identified application became abandoned for failure to timely pay the issue/publication fee. In an application or patent, abandoned or lapsed for failure to pay the issue/publication fee or any portion thereof, the required reply must be the payment of the issue/publication fee or any outstanding balance thereof. See MPEP 711.03(c)(III)(A)(1).

Therefore, the filing of a request for continued examination is not a proper reply under 37 CFR 1.137(a)(1) or (b)(1). Petitioner is advised that the issue fee paid on June 21, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

By hand: Customer Window located at:

U.S. Patent and Trademark Office
220 20th street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

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

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

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RATNERPRESTIA
P.O. BOX 1596
WILMINGTON, DE 19899

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OCT 0 8 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Reinhard Noack :
Application No. 10/075,873 :
Filed: February 13, 2002 :
Attorney Docket No. ANI-100US :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 7, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 7, 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 concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1661 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

---

[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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Motorola, Inc.
Law Department
1303 East Algonquin Road
3rd Floor
Schaumburg, IL 60196

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APR 21 2008

OFFICE OF PETITIONS

In re Application of	:	
Barry P. Falvo, et. al.	:	
Application No. 10/075,888	:	ON PETITION
Filed: February 13, 2002	:	
Attorney Docket No. D02603	:	

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

The application became abandoned for failure to respond to the non-final Office action mailed July 18, 2006. A Notice of Abandonment was mailed on February 15, 2007.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Thomas Bethea, Jr. 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.

Additionally, it is noted that the petition failed to include the registration number of petitioner, Thomas Bethea, Jr.; however, since the amendment included with the present petition contains the registration number of counsel, the registration number on the amendment will be construed as the necessary ratification.

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 $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2623 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Warner-Lambert Company
2800 Plymouth Road
Ann Arbor, MI 48105

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AUG 1 3 2002

OFFICE OF PETITIONS

In re Application of
Leslie Magnus-Miller et al.
Application No. 10/075,929
Filed: February 13, 2002
Attorney Docket No. 5670-D1-01-DRK

DECISION GRANTING
PETITION

This is a decision on the petition, filed on April 22, 2002, requesting that the above-identified application, without drawings, be accorded a filing date of February 13, 2002.

The application was filed on February 13, 2002, without drawings.[1] Accordingly, on March 22, 2002, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary.

In response, on April 22, 2002, the present petition was filed. The petition states that the drawings are not necessary for an understanding of the subject matter sought to be patented. Petitioners request that the application, without drawings, **be accorded a filing date of February 13, 2002**.

In view of the claims being drawn to a chemical composition, the petition is granted.[2] The "Notice of Incomplete Nonprovisional Application" mailed on March 22, 2002 is hereby vacated.

The two (2) sheets of drawings (Figures 1 and 2) filed with the present application will not be processed or used for examination purposes, but will be retained in the application file with the present petition.

---

[1] 35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

[2] MPEP 601.01 (c)

The $130.00 petition fee is unnecessary and will be credited to counsel's deposit account, No. 23-0455.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a **filing date of February 13, 2002**, and for an indication on the bib-data sheet that no sheets of drawings were present on filing.

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

Patricia Faison-Ball

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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WARNER-LAMBERT COMPANY
2800 PLYMOUTH RD
ANN ARBOR, MI 48105

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OFFICE OF PETITIONS

In re Application of
Leslie Magnus-Miller
Application No. 10/075,929
Filed: February 13, 2002
Attorney Docket No. 5670-D1-01-DRK

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed May 10, 2005.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before April 26, 2005. This decision precedes the mailing of a Notice of Abandonment. Receipt is acknowledged of the requisite issue/publication fee on May 10, 2005.

This matter 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

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EDWARD L. KELLEY
GSI LUMONICS CORP.
39 MANNING ROAD
BILLERICA, MA 01821

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JUL 0 9 2004

OFFICE OF PETITIONS

In re Application of :
David C. Brown, et al. :
Application No. 10/075,930 : ON PETITION
Filed: February 13, 2002 :
Attorney Docket No. GOLIATH-C :

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 William E. Hilton 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. Hilton 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. Hilton, 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 June 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]

[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 du 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 2874 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: William E.Hilton
Gauthier & Connors, LLP
225 Franklin Street, Suite 3300
Boston, MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILLIAM E. HILTON
GAUTHIER & CONNORS
225 FRANKLIN STREET
SUITE 3300
BOSTON, MA 02110

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FEB 16 2005

OFFICE OF PETITIONS

In re Application of :
David C. Brown, et al. :
Application No. 10/075,930 : ON PETITION
Filed: February 13, 2002 :
Attorney Docket No. GSI.6689-C :

This is a decision on the petition, filed February 4, 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 2883 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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GAUTHIER & CONNORS
225 FRANKLIN STREET
SUITE 3300
BOSTON, MA 02110

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APR 0 5 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
David C. Brown, et al. :
Application No. 10/075,930 :
Filed: February 13, 2002 :
Attorney Docket No.: GSI.6689-C :

This is a decision on the petition, filed March 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 January 30, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2874 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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TUNG & ASSOCIATES
SUITE 120
838 W. LONG LAKE ROAD
BLOOMFIELD HILLS, MI 48302

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FEB 0 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Chih, Yue Der	:	
Application No. 10/075,938	:	ON PETITION
Filed: February 13, 2002	:	
Attorney Docket No. 67,200-489	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 31, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

The instant petition lacks item (3). The instant petition as file on December 31, 2007 failed to include the proper statement of unintentional delay as stated above, declaring that the entire delay from the due date of the reply to the filing of the petition was unintentional.

---

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

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

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh

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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TUNG & ASSOCIATES
SUITE 120
838 W. LONG LAKE ROAD
BLOOMFIELD HILLS, MI 48302

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OFFICE OF PETITIONS

In re Application of	:	
Chih, Yue Der	:	
Application No. 10/075,938	:	DECISION ON PETITION
Filed: February 13, 2002	:	
Attorney Docket No. 67,200-489 (2000-0480)	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 10, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition now satisfies all requirements of 37 CFR 1.137(b), including the 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 2133 for processing of the Request for Continued Examination under 37 CFR 1.114 filed previously on December 31, 2007.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 11

BOEHRINGER INGELHEIM CORPORATION
900 RIDGEBURY ROAD
P.O. BOX 368
RIDGEFIELD CT 06877

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OCT 0 4 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Oliver Meyer et al :
Application No. 10/075,956 :
Filed: February 14, 2002 :
Attorney Docket No. 1/1190US :

This is a decision on the petition, filed by facsimile transmission on October 3, 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 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 1625 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* request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the 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. 18

PPG INDUSTRIES, INC.
INTELLECTUAL PROPERTY DEPT.
ONE PPG PLACE
PITTSBURGH, PA 15272

COPY MAILED

SEP 2 3 2005

OFFICE OF PETITIONS

In re Application of :
Caroline S. Harris, et al. :
Application No. 10/075,996 :
Filed: February 14, 2002 :
Attorney Docket No. 1660A1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 6, 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 July 28, 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) was obtained. An Advisory action was mailed February 22, 2005, indicating that the reply filed on September 30, 2004, failed to place the application in condition for allowance. Accordingly, the application became abandoned on October 29, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment and a Request for Continued Examination (RCE); (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed April 6, 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 file is being forwarded to Technology Center 1700, Art Unit 1775 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 9

BRIAN L. RIBANDO
REISING, ETHINGTON, BARNES, KISSELLE, P.C.
P. O. BOX 4390
TROY MI 48099

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APR 2 8 2004
OFFICE OF PETITIONS

In re Application of
Daniel Bridgwater
Application No. 10/076,024
Filed: February 14, 2002
Attorney Docket Number: 7346.0103.002 (CIN 0103)
Title of Invention: Swarf Flushing System

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 5, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action which was mailed on March 24, 2003. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on June 25, 2003. A Notice of Abandonment was mailed on September 24, 2003.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Office hereby acknowledges the receipt of the Amendment submitted with the instant petition. The change of correspondence address has been entered and made of record.

This application is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,036	02/13/2002	John Joseph Mascavage III	020375-002100US	7402

20350 7590 09/10/2008
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER
MAGUIRE, LINDSAY M

ART UNIT	PAPER NUMBER
3692	

MAIL DATE	DELIVERY MODE
09/10/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FROM DIRECTORS OFFICE

SEP 0 9 2008

TECHNOLOGY CENTER 3600

Tadd F. Wilson
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834

In re Application of: Mascavage, John et al.	:	**DECISION ON PETITION**
Application No. 10/076,036	:	**UNDER 37 CFR 1.181**
Filed: February 13, 2002	:	
Attorney Docket No.: 020375-002100US	:	
For: Buttons for Person to Person Payments	:	

This is in response to Applicants' petitioning under 37 CFR 1.181 filed February 28, 2008 requesting withdrawal of the Requirement for Information under 37 C.F.R. § 1.105(a)(1) of the Office action mailed November 23, 2007.

The Petition is **GRANTED**.

Applicants allege that Requirement for Information under 37 C.F.R. § 1.105(a)(1) in the office action mailed on November 23, 2007 is requesting is not proper.

Applicants have argued that "The *Requirement for Information* under 37 C.F.R. § 1.105 was made in response to *Information Disclosure Statements* filed by the Applicants on May 23, 2005 and April 6, 2006 and requires "a concise statement of the relevance on all cited references who's *[sic]* dates are before 1950," stating "it is unclear how the references from 1874, 1873, 1908, etc. are relevant to the current application." However, the Applicants respectfully contend that the *Requirement for Information* is made without a reasonable basis for the information required, is overly broad, i.e., not clearly focused on the reason for the requirement, and improperly requires the Applicants to formulate and stipulate to opinions rather than facts. Therefore, the Applicants respectfully request withdrawal of the *Requirement for Information.*"

However, in the final office action mailed on April 16, 2008 the examiner has maintained that the applicants provide further information on the matter of the original *Requirement for Information* under 37 C.F.R. § 1.105 that was made on November 23, 2007.

Applicants' arguments as to the matter of this petition are considered persuasive and the petition is granted. In addition, Requirement for Information under 37 C.F.R. § 1.105(a)(1) in the final office action mailed on April 16, 2008 is also withdrawn.

However, the office reserves the right to request further information and clarification on relevant material submitted by the applicants as part of the Information Disclosure Statements that applicants have filed. As it is clearly a matter of which one of the multitude of documents submitted by the applicants are in fact relevant to the examination and prosecution of this application.

Questions concerning this decision should be referred to SPE Kambiz Abdi at (571) 272-6702.

Summary: The petition is **GRANTED**.

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

TL

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: John Joseph Mascavage III	: DECISION ON REQUEST FOR
Patent Number	: 7596529	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/076,036	: 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 **1907** 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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SEP 19 2007

OFFICE OF PETITIONS

MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS, FL 33410

In re Application of :
William R. Palmer et al :
Application No. 10/076,051 : ON PETITION
Filed: February 12, 2002 :
Attorney Docket No. 1471.075 :

This is a decision on the petition, filed May 19, 2007 under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED.**

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 6, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 7, 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(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (2).

Office record shows the $750 (small entity) petition fee has not been received. Accordingly, this petition can not be revive until the $750 petition fee is received.

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS, FL 33410

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OFFICE OF PETITIONS

In re Application of	:	
William R. Palmer et al	:	
Application No. 10/076,051	:	ON PETITION
Filed: February 12, 2002	:	
Attorney Docket No. 1471.075	:	

This is a decision on the renewed petition filed October 3, 2007 which is being treated as a renewed petition under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

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

This matter is being referred to Technology Center AU 1712 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS, FL 33410

In re Application of
William R. Palmer et al
Application No. 10/076,051
Filed: February 12, 2002
Attorney Docket No. 1471.075

ON PETITION

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

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 30, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is October 1, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1796 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition 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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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

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OCT 27 2008

OFFICE OF PETITIONS

In re Patent No. 6,814,239
Application No. 10/076,070
Filing Date: February 15, 2002
Issue Date: November 9, 2004
Attorney Docket No. SUZUK128

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.182, filed February 1, 2008, requesting issuance of duplicate Letters of Patent for the above-identified patent.

The petition is **granted**.

The file record discloses that the instant application matured into U.S. Patent No. 6,814,239 on November 9, 2004. Petitioner contends, however, that the Letters of Patent was lost.

Any questions concerning this decision may be directed to the undersigned at (571)272-3222. Any questions concerning issuance of the duplicate Letter of Patent should be directed to Niomi Farmer, Office of Data Management at (703) 308-9250 extension 129.

A copy of this decision is being forwarded to the Office of Data Management for issuance of a duplicate Letter of Patent.

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc: Niomi Farmer—Office of Data Management FAX: 571-270-9753

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

Mail Date: 04/21/2010

Applicant	: David Bar-Or	: DECISION ON REQUEST FOR
Patent Number	: 7592304	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/076,071	: 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 **603** 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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SMITH, GAMBRELL & RUSSELL, LLP
ATTORNEYS AT LAW
SUITE 800
1850 M STREET, N.W.
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of	:	
Ochiai et al.	:	
Application Number: 10/076,079	:	DECISION ON PETITION
Patent: 6,852,789	:	
Filing Date: February 15, 2002	:	
Issue Date: February 8, 2005	:	

This is a decision on the petition filed September 8, 2006 to correct the assignee under 37 CFR 3.81 (b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Dismissed**.

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

Any request for issuance of an application in the name of the assignee submitted after the date of the payment of the issue fee, and any request that a patent be corrected to state the name of assignee must :

(A) state the assignment was submitted for recordation as set forth in 37 CFR §3.11 before issuance of the patent;

---

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

(B) provide a request for a certificate of correction §1.323;

(C) provide the fee set forth in 37 CFR §1.20 (a) and

(D) provide the processing fee set forth in 37 CFR §1.17(i).

Pursuant to petitioner's request deposit account 02-4300 will be charged the $130.00 processing fee. A review of the record shows that a $130.00 check was not received.

Petitioner has failed to provide (A). Petitioner states two assignees were recorded for the above-identified patent. The two assignees are Degussa AG and Nippon Aerosil Co., Ltd. Petitioner states Nippon Aerosil Co., Ltd was inadvertently omitted on the issue fee transmittal and now request that a certificate of correction be issued to reflect the two assignees. However, petitioner has also requested that the first assignee's name be corrected from "Degussa-AG" to "Degussa AG". A review of the record shows that Nippon Aerosil Co., Ltd . was an assignee at the time of issuance of the patent. However, the correction to the first assignee's name was not recorded prior to the issuance of the patent. Accordingly a certificate of correction that shows "Degussa AG" is not in order. Assignment information printed on a patent is not updated after a patent is issued, and may not be reflective of the assignment recorded in the Office subsequent to the issuance of the patent. However, if petitioner desires a certificate of correction reflecting the addition of Nippon Aerosil Co., Ltd, a new certificate of correction should be provided on renewed petition.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter may 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

cc: Robert G. Weilacher
Smith, Gambrell & Russell LLP
1230 Peachtree Street, N.E.
Atlanta, Georgia 30309-3592

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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OFFICE OF PETITIONS

In re Patent No. 6,887,357	:	
Issued: 3 May, 2005	:	
Application No. 10/076,097	:	ON PETITION
Filed: 15 February, 2002	:	
Attorney Docket No. LEEL3002/EM	:	

This is a decision on the petition under 37 CFR 1.182, filed on 18 May, 2006, which is treated as a petition requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about 3 May, 2005, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $400.00 requesting a duplicate Letters Patent. Upon receipt of the petition and petition fee, the request for a duplicate Letters Patent will be granted.

Although petitioners' counsel states that the original Letters Patent has not been received, petitioners have not provided any supporting documentation showing that the original Letters Patent was not received.

Nevertheless, as petitioners have submitted authorization to charge the petition fee, the petition is granted.

Petitioners should note that the present petition under 37 CFR 1.182 is now $400.00.[1] The balance due will be charged to counsel's deposit account as authorized in the petition.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor, Room C-32
(FAX 571-270-9937)

[1] See 37 CFR 1.17(f).

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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MAR 28 2005

#12

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

In re Application of	:
Gregory Stephanopoulos et al	:
Serial No.: 10/076,106	: PETITION DECISION
Filed: February 12, 2002	:
Attorney Docket No.: MIN-P01-038	:

This is in response to the petition under 37 CFR 1.137(b) which is being treated as a petition under 37 CFR 1.181, filed August 20, 2004, for withdrawal of abandonment of the above identified application based on filing of a timely reply. 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 October 29, 2003, requiring sequence compliance and setting a one month shortened statutory period for reply. A Notice of Abandonment was mailed to applicants on August 10, 2004, when no reply was received. Applicants state that a reply was filed on November 17, 2003, and provide a copy thereof. In actuality, the Office action mailed by the examiner was unnecessary as applicants had earlier complied with sequence requirements, but such compliance was overlooked by the examiner. In view of the timely reply the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision

The petition is **GRANTED**.

The application will be forwarded to the examiner for further action. As there is no fee for this petition, the petition fee paid of $665.00 will be credited to applicants' Deposit Account No. 18-1945, as directed.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number.

Jasemine C. Chambers
Director, Technology Center 1600

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of	:	
Olaf ZAENCKER	:	
Application No. 10/076,108	:	DECISION ON PETITION
Filed: February 15, 2002	:	TO WITHDRAW
Attorney Docket No. 449122022100	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed August 31, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on October 29, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April M. Wise
Petitions Examiner
Office of Petitions

cc: BELL, BOYD & LLOYD, LLP
PO BOX 1135
CHICAGO, IL 60690

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

Truong Dinh
Dinh & Associates
2506 Ash Street
Palo Alto, CA 94306

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OCT 0 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Yang et al.	:	
Application No. 10/076,120	:	DECISION GRANTING
Filed: February 12, 2002	:	PETITION
Attorney Docket No. 122-2.1	:	

This is a decision on the petition filed July 8, 2002, to establish that Figure 6 was part of the originally filed application.

On February 12, 2002, the application was filed.

On April 4, 2002, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of February 12, 2002, and advising applicants that Figure 6 described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that Figure 6 was deposited on February 12, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Formal Drawings, 8 sheets" on February 12, 2002.[1] Petitioner has also submitted a copy of the missing documentation- sheet 6 consisting of Figure 6.

Upon review of the record, Figure 6, deposited on February 12, 2002, has not been located. However, the evidence is convincing that the application papers deposited on February 12, 2002, included Figure 6, and that Figure 6 was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of Figure 6 submitted with the petition will be used for examination purposes.

No petition fee is required and none has been charged.

The Notice mailed April 4, 2002, is hereby vacated to the extent that the Notice stated Figure 6 was omitted.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of February 12, 2002, using the application papers filed on February 12, 2002, and the copy of Figure 6 filed on July 8, 2002.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JUN 19 2009

OFFICE OF PETITIONS

THOMAS KAYDEN HORSTEMEYER & RISLEY LLP
600 GALLERIA PARKWAY SE
STE 1500
ATLANTA GA 30339-5994

In re Application of	:	
Yang, et al.	:	
Application No. 10/076,120	:	ON PETITION
Filed: February 12, 2002	:	
Attorney Docket No. 122-2.1	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 18, 2009.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed July 18, 2007. This Office action set an extendable period for reply of three (3) months. No reply having been received, the application became abandoned on October 19, 2007. A Notice of Abandonment was mailed on March 6, 2008.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to

Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10; 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application is being forwarded to Group Art Unit 2626 for consideration of the Amendment filed May 18, 2009.

Telephone inquiries regarding 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
Washington, D.C. 20231
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Paper No. 7

Dreier & Baritz
499 Park Avenue
20th Floor
New York, NY 10022

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DEC 3 0 2002

OFFICE OF PETITIONS

In re Application of :
Dale Clifford et al. :
Application No. 10/076,122 : ON PETITION
Filed: February 14, 2002 :
Attorney Docket No. 6005.019 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 18, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed March 5, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained on March 5, 2002. Accordingly, the above-identified application became abandoned on May 6, 2002.

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 $1440 extension of time submitted with the petition on Decmeber 18, 2002 was subsequent to the maximum extendable period for reply, this fee is unnecessary. Petitioner may request a refund by writing the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

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

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

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OFFICE OF PETITIONS

In re Application of :
Randall G. Banton :
Application No. 10/076,124 : NOTICE
Filed: February 14, 2002 :
Attorney Docket No. 102323-88

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

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

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

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

This file is being forwarded to the Files Repository.

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

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: 7/9/04 Signature: (David J. Powsner)

Docket No.: 102323-88
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Randall G. Banton

Confirmation No.: 8888

Patent No.: 6,759,588 10/076124

Group Art Unit: 2831

Filed: February 14, 2002

Examiner: Ngo, Hung V.

For: CIRCUIT BOARD ASSEMBLY WITH A COMBINATION THERMAL, SHOCK, VIBRATION, AND/OR ELECROMAGNETIC COMPATIBILITY COVER

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OFFICE OF PETITIONS

Payment of Deficiency Owed per 1.28(c)

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

Dear Sir:

Although established and paid in good faith as a small entity, it has been discovered that status as a small entity was established in error at the time of filing. The total deficiency is found to be $1,203, for which a check is enclosed. An itemization of the fees paid in error, the date of each payment and deficiency owed is listed below.

Fee	Current fee for a non-small entity	Small Entity Fee Paid	Date Small Entity Fee Paid	Deficiency Owed
Issue Fee	$1,330	$665.00	December 30, 2002	$665.00
One Month Extension Fee	$110.00	$55.00	May 17, 2002	$55.00
Basic Filing Fee	$770.00	$370.00	May 17, 2002	$400.00

07/15/2004 AKELLEY 00000028 10076124

01 FC:1461 55.00 OP
02 FC:1461 1148.00 OP

2 Extra Claims	$36.00	$18.00	May 17, 2002	$18.00
Late Oath and Declaration Fee	$130.00	$65.00	May 17, 2002	$65.00
Total	$2,246	$1,108		**$1,203**

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this Application by this firm) to our Deposit Account No. 141449, under Order No. 102323-88. A duplicate copy of this paper is enclosed.

Dated: 7/9/04

Respectfully submitted,

By _____

David J. Powsner
Registration No.: 31,868
NUTTER MCCLENNEN & FISH LLP
World Trade Center West
155 Seaport Boulevard
Boston, Massachusetts 02210-2604
(617) 439-2000
Attorney for Applicant

1312084.1

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Nutter

Nutter McClennen & Fish LLP ■ Attorneys at Law
World Trade Center West ■ 155 Seaport Boulevard ■ Boston, MA 02210-2604

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P.O. Box 1450
Alexandria, VA 22313-1450

RE: DJP 102323- 88

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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CALIPER LIFE SCIENCES, INC.
605 FAIRCHILD DRIVE
MOUNTAIN VIEW CA 94043-2234

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SEP 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Stern et al.	:	
Application No. 10/076,135	:	ON PETITION
Filed: February 14, 2002	:	
Attorney Docket No. 100/11020	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 23, 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 1700 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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OFFICE OF PETITIONS

INTELLECTUAL PROPERTY LAW OFFICES
1901 S. BASCOM AVENUE, SUITE 660
CAMPBELL CA 95008

In re Application of :
FREDRICKSON et al. :
Application No. 10/076,162 : DECISION ON PETITION
Filed: February 13, 2002 : TO WITHDRAW
Attorney Docket No. 60208.300901 : 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 21, 2005.

The request is **APPROVED**.

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

The request was signed by Michael J. Hughes on behalf of all attorneys of record who are associated with Customer No. 32112. All attorneys/agents associated with the Customer Number 32112 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.

The application became abandoned for failure to respond to a non-final Office action mailed June 24, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: HORIZON, A GLIMPSE OF TOMORROW
2670 MYRTLE AVENUE #200
MONROVIA, CA 91016

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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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APR 25 2006
OFFICE OF PETITIONS

INTELLECTUAL PROPERTY LAW OFFICES
1901 S. BASCOM AVENUE, SUITE 660
CAMPBELL CA 95008

In re Application of

FREDRICKSON et al.
Application No. 10/076,162
Filed: February 13, 2002
Attorney Docket No. 60208.300901

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 21, 2005.

The request is **APPROVED**.

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

The request was signed by Michael J. Hughes on behalf of all attorneys of record who are associated with Customer No. 32112. All attorneys/agents associated with the Customer Number 32112 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.

The application became abandoned for failure to respond to a non-final Office action mailed June 24, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: HORIZON, A GLIMPSE OF TOMORROW
2670 MYRTLE AVENUE #200
MONROVIA, CA 91016

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 5

MAIL

NOV 25 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SKJERVEN MORRILL MacPHERSON LLP
25 METRO DRIVE
SUITE 700
SAN JOSE CA 95110

In re Application of :
Ham, Soohyun :
Application No. 10/076,164 :
Filed: February 13, 2002 :
For: **EAR CLASP HEADSET** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on November 1, 2002.

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

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys and agents of Customer Nos. 24251 are removed from record.

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

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Peter Hsieh
Plantronics, Inc.
345 Encinal Street
P. O. Box 635
Santa Cruz, CA 95060

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

PLANTRONICS INC.
345 ENCINAL STREET
P.O. BOX 635
SANTA CRUZ, CA 95060-0635

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DEC 01 2003
OFFICE OF PETITIONS

In re Application of :
Soohyun Ham :DECISION GRANTING PETITION
Application No. 10/076,164 :UNDER 37 CFR 1.137(b)
Filed: February 13, 2002 :
Attorney Docket No. M-12511 US :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on April 29, 2003, and supplemented on June 26, 2003, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on January 31, 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 previously rescinded.

Pursuant to petitioner's authorization, Deposit Account No. 50-2315 was charged $1,300.00 for the petition to revive an unintentionally abandoned application (37 CFR 1.137(f)).

Any inquiries concerning this decision may be directed to Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center Art Unit 2643 for examination in due course.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 16

PLANTRONICS, INC.
345 ENCINAL STREET
P.O. BOX 635
SANTA CRUZ CA 95060-0635

MAIL

APR 07 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
HAM, SOOHYUN
Application No. 10/076,164
Filed: February 13, 2002
For: EAR CLASP HEADSET

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed March 22, 2004 under 37 CFR §1.102(d) to make the application special.

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

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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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

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MAR 2 2 2007

OFFICE OF PETITIONS

In re Application of	
Hal Hildebrand, et al.	
Application No. 10/076,181	DECISION ON PETITION
Filed: February 12, 2002	TO WITHDRAW
Attorney Docket No. SSL1P002/SS-005	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed November 20, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Carr & Ferrell, LLP has been revoked by the assignee of the patent application on February 16, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: RYAN MORRISON
INVENTION LAW GROUP
1756 – 114TH AVENUE SE
SUITE 110
BELLEVUE, WA 98004

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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GREER, BURNS & CRAIN, LTD.
Suite 2500
300 South Wacker Drive
Chicago IL 60606

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JUN 22 2007

OFFICE OF PETITIONS

In re Patent No. 7,145,913 :
Issue Date: December 5, 2006 :
Application No. 10/076, 203 : NOTICE
Filed: February 13, 2002 :
Attorney Docket No. 1201.66062 :

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

ALESIA M. BROWN
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Tzvi Hirshaut
PROSKAUER ROSE LLP
PATENT DEPARTMENT
1585 BROADWAY
NEW YORK NY 10036-8299

MAILED

JAN 15 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paper No. 6

In re application of
Steven R. Selesny, et al.
Application No. 10/076,205
Filed: February 14, 2002
For: RISK INSURANCE FINANCIAL PRODUCT AND METHOD

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the renewed petition filed on March 27, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII. The delay in deciding this petition is regretted.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/cps 10/28/03

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

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OFFICE OF PETITIONS

In re Application of :
Randall G. Banton et al :
Application No. 10/076,207 : NOTICE
Filed: February 14, 2002 :
Attorney Docket No. 0102323-00090 :

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

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

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

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

This matter is being referred to Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080

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FEB 07 2006

OFFICE OF PETITIONS

In re Application of	:	
Chan et al.	:	
Application No. 10/076,213	:	DECISION ON PETITION
Filed: 12 February, 2002	:	
Atty Dckt No. A-60010-1/RFT/DLR	:	

This is a decision on the petition filed on 17 January, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 16 December, 2005, for failure to timely submit the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on 15 September, 2005, which set a three (3) month period for reply. The filing of the present petition precedes the mailing of a Notice of Abandonment.

---

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

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

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GARY L. EASTMAN
707 BROADWAY STREET, SUITE 1800
SAN DIEGO, CA 92101

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JUN 29 2005

OFFICE OF PETITIONS

In re Application of :
James F. Weir :
Application No. 10/076,219 :
Filed: February 13, 2002 :
Attorney Docket No. 1188-PA03 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 13, 2005, 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 January 15, 2003. Accordingly, this application became abandoned on April 16, 2003. A Notice of Abandonment was mailed on August 27, 2003.

The file is being forwarded to Technology Center 3600, for review of the response, submitted May 13, 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/Patent
United States Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-5-08

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction on Patent No.: 6710908 C 10/076224

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.

Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

/Ricky Mack/
SPE

2873
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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NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

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OFFICE OF PETITIONS

In re Application of	:	
Randall G. Banton, et al.	:	
Application No. 10/076,226	:	NOTICE
Filed: February 14, 2002	:	
Attorney Docket No. 0102323-00085		

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 Publication to await the response to the Notice of Allowance and Issue Fee Due mailed July 21, 2004.

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

US 097060880PP1

Creation date: 08-06-2004
Indexing Officer: NWASHINGTON - NEASHANTA WASHINGTON
Team: 3700PrintWorkingFolder
Dossier: 09706088

Legal Date: 08-05-2004

No.	Doccode	Number of pages
1	PETDEC	2

Total number of pages: 2

Remarks:

Order of re-scan issued on .....

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

Pillsbury Winthrop LLP
Intellectual Property Group
1600 Tysons Boulevard
McLean VA 22102

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DEC 26 2002

OFFICE OF PETITIONS

In re Application of
Goren, et al.
Application No. 10/076,247
Filed: January 14, 2002
Attorney Docket No.: P 0280702
FOR: ANTIVIRAL COMPOSITION DERIVED FROM ALLIUM CEPA AND THERAPEUTIC USE THEREOF

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.181 for review of a filing date, filed December 12, 2002, requesting that the filing date of the above-identified application be corrected to January 14, 2002. The presently accorded filing date is February 14, 2002.

As evidenced by the Office of Initial Patent Examination date-stamp found on the first page of the transmittal letter and the date -stamped postcard receipt, the filing date of the above-identified application is January 14, 2002.

Unfortunately, due to data entry error, the application was processed with an incorrect filing date. The same incorrect filing date was listed on the filing receipt.

The application is entitled to a January 14, 2002 filing date. The petition is **GRANTED**.

Pursuant to petitioner's authorization, the $130.00 petition fee will be credited to deposit account, no. 03-3975.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of January 14, 2002 and the mailing of a corrected filing receipt.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT W. STROZIER
P.O. BOX 429
BELLAIRE TX 77402-0429

COPY MAILED

JUL 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Adolfo Goren et al	:	
Application No. 10/076,247	:	DECISION GRANTING PETITION
Filed: January 14, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. P 0280702	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement of September 16, 2004 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1654.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ROBERT W. STROZIER, PLLC
PO BOX 429
BELLAIRE, TX 77402-0429

MAILED

FEB 23 2009

OFFICE OF PETITIONS

In re Application of :
Adolfo Goren et al :
Application No. 10/076,247 :
Filed: January 14, 2002 :
Attorney Docket No. P 0280702 :

ON PETITION

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

The petition is **DISMISSED.**

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

The above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed November 5, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). Accordingly, the above-identified application became abandoned on December 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); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (2).

The petition does not satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (2) the $810 petition fee was not received. The $405 Request for Continued Examination (RCE) fee was received with petition on January 27, 2009. The petition did not give the Office authorization to charge the petition fee. Accordingly, this petition can not be revive until the $810 petition fee is received.

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT W. STROZIER, PLLC
P.O. BOX 429
BELLAIRE, TX 77402-0429

MAILED

APR 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Adolfo Goren	:	
Application No. 10/076,247	:	ON PETITION
Filed: January 14, 2002	:	
Attorney Docket No. P 0280702	:	

This is a decision on the renewed petition filed February 26, 2009, which is being treated as a petition under 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

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

This application is being referred to Technology Center AU 1655 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petitions Examiner
Office of Petitions

Reedsmith

FAX TRANSMITTAL

From: Jody L. Burtner
Direct Phone: 412.288.3233
Email: jburtner@reedsmith.com
Date: September 15, 2004

Reed Smith LLP
435 Sixth Avenue
Pittsburgh, PA 15219-1886
412.288.3131
Fax 412.288.3063

Total Number Of Pages Including Cover Page 14

FAX TO

Name	Company	Fax Number	Phone Number
Ms. Darlene Lyon	U.S. Patent and Trademark Office	703-308-5065	

Original will follow via: ☐ **Regular Mail** ☐ **Overnight Delivery** ☐ **Messenger** ☒ **None**

NOTES:

Re: Applicants: PODLUCKY et al.
Title: TEA BREWING SYSTEM
Serial No.: 10/076,253
Filed: February 13, 2002
Conf. No.: 8603
Art Unit: 1761
Examiner: A. J. Weier
Docket No.: 01-410-US

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If you do not receive all of the pages, please call Lori at 412.288.4160.

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Client Number: 253623 Matter Number: 20015 Attorney Number: 1354
Transmission Time: : a.m./p.m. Finish Time: : a.m./p.m.
Operator:

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ReedSmith

Reed Smith LLP
435 Sixth Avenue
Pittsburgh, PA 15219-1886
412.288.3131
Fax 412.288.3063

Louis A. DePaul, Esq.
Direct Phone: 412.288.3054
Email: ldepaul@reedsmith.com

September 15, 2004

VIA TELEFAX 703-308-5065
Attention: Ms. Darlene Lyon
Commissioner for Patents
MAIL STOP ISSUE FEE
P.O. BOX 1450
Alexandria, VA 22313-1450

Re:	Applicants:	PODLUCKY et al.
	Title:	TEA BREWING SYSTEM
	Serial No.:	10/076,253
	Filed:	February 13, 2002
	Conf. No.:	8603
	Art Unit:	1761
	Examiner:	A. J. Weier
	Docket No.:	01-410-US

Dear Sir:

Enclosed are the following for filing in connection with the above-referenced application:

1. A Petition to Withdraw Holding of Abandonment Pursuant to 37 CFR 1.181 with attachments.

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

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being

MAILED

☐ deposited with the United States Postal Service on with sufficient postage as first-class mail in an envelope addressed to

(Signature of person mailing paper or fee)

FACSIMILE

☒ transmitted by facsimile on September 15, 2004 to the U.S. Patent and Trademark telefax number 703-308-5065.

Jody L. Burtner

(Signature of person mailing paper or fee)

ReedSmith

The Director is authorized to charge any payment due in connection with this submission, or to credit any overpayment to Deposit Account No. 18-0582. A duplicate copy of this authorization is enclosed.

Very truly yours,

REED SMITH LLP

By

Louis A. DePaul
Reg. No. 28,407

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.
10/076,253	02/13/2002	Gregory J. Padlucky	01-410-US	8603

7590 09/01/2004

Louis A. DePaul, Esq.
REED SMITH LLP
P.O. Box 488
Pittsburgh, PA 15230-0488

EXAMINER
WEIER, ANTHONY J

ART UNIT	PAPER NUMBER
1761	

DATE MAILED: 09/01/2004

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

COPY

REQUIREMENT PLACED ON DEADLINE CONTROL ON:
9-8-04 (date) SJC (initials)

PTO-90C (Rev. 10/03)

United States Patent and Trademark Office

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

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10 076253			

EXAMINER

ART UNIT	PAPER NUMBER

COPY

DATE MAILED:

NOTICE OF ABANDONMENT

This application is abandoned in view of:

☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.

☐ A reply (with Certificate of Mailing or Transmission of _____) was received on _____ which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.

☐ A proposed reply was received on _____ , but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).

☐ A reply was received on _____ , but it does not constitute a proper reply, or a *bona fide* attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in the last box below).

☐ No reply has been received.

☑ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85)(or Notice of Publication Fee Due).

☑ The submitted fee of $ 655 is insufficient. A balance of $ 10 is due.
The issue fee by 37 CFR 1.18 is $ 665 . The publication fee, if required, by 37 CFR 1.18(d) is $ —.

☐ The issue fee and publication fee, if applicable, have not been received.

☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in the Notice of Allowability (PTOL-37).

☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.

☐ No corrected drawings have been received.

☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all the applicants.

☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon filing of a continuing application.

☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

☐ The reason(s) below: _____

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

ReedSmith

Cheryl L. Gastineau, Patent Agent
Direct Phone: 412.288.4152
Email: cgastineau@reedsmith.com

Reed Smith LLP
435 Sixth Avenue
Pittsburgh, PA 15219-1886
412.288.3131
Fax 412.288.3063

July 15, 2004

Commissioner for Patents
MAIL STOP ISSUE FEE
P.O. Box 1450
Alexandria, VA 22313-1450

COPY

Re: Applicant: PODLUCKY
Title: TEA BREWING SYSTEM
Serial No.: 10/076,253
Filed: February 13, 2002
Conf. No.: 8603
Art Unit: 1761
Examiner: A. J. Weier
Docket No.: 01-410-US

Dear Sir:

Enclosed are the following for filing in connection with the above-referenced application:

1. A completed Issue Fee Transmittal;
2. A check in the amount of $665.00 representing the issue fee for a small entity; and

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

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being

MAILED

☒ Deposited with the United States Postal Service on July 15, 2004, with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, **MAIL STOP ISSUE FEE**, P.O. Box 1450, Alexandria, VA 22313-1450.

Jody L. Burtner

(Signature of person mailing paper or fee)

FACSIMILE

☐ transmitted by facsimile on [date] to the U.S. Patent and Trademark Office.

Type Signature Name

(Signature of person mailing paper or fee)

ReedSmith

3. A self-addressed stamped postcard, return of which is requested to acknowledge receipt of the enclosed documents.

The Director is authorized to charge any additional payment due in connection with this submission, or to credit any overpayment to Deposit Account No. 18-0582. A duplicate copy of this authorization is enclosed.

Very truly yours,

REED SMITH LLP

By
Cheryl L. Gastineau
Reg. No. 39,469

COPY

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 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 05/19/2004

Louis A. DePaul, Esq.
REED SMITH LLP
P.O. Box 488
Pittsburgh, PA 15230-0488

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.

Jody L. Burtner (Depositor's name)
(Signature)
July 15, 2004 (Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,253	02/13/2002	Gregory J. Podlucky	01-410-US	8603

TITLE OF INVENTION: TEA BREWING SYSTEM

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$665	$0	$665	08/19/2004

EXAMINER	ART UNIT	CLASS-SUBCLASS
WEIER, ANTHONY J	1761	426-435000

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 Reed Smith LLP
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: Le-Nature's, Inc.

(B) RESIDENCE: (CITY and STATE OR COUNTRY): Latrobe, Pennsylvania

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ individual ☒ corporation or other private group entity ☐ government

4a. The following fee(s) are enclosed:

☒ Issue Fee
☐ Publication Fee
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

☒ A check in the amount of the fee(s) is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

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

(Authorized Signature) Cheryl L. Gastineau (Date) July 15, 2004

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.

09/17/2004 DTERRY 00000003 180582 10076253
01 FC:2801 10.00 DA 655.00 OP

TRANSMIT THIS FORM WITH FEE(S)

PAYEE NAME: DIRECTOR OF THE UNITED STATES VENDOR ID: 00409 CHK DATE: 07/15/2004 No. 828330

DATE	VOUCHER ID	INVOICE NUMBER	DESCRIPTION	AMOUNT
07/15/2004	683336	071504JLB		$ 655.00
			TOTAL	$ 655.00

REED SMITH LLP P.O. Box 2009 Pittsburgh, PA 15230

THIS DOCUMENT CONTAINS SECURITY FEATURES - SEE BACK FOR DETAILS

Mellon Bank, N.A.
Pittsburgh, Pennsylvania

ReedSmith LLP
P.O. Box 2009
Pittsburgh, PA 15230

No. 828330

80-180/433

07/15/2004

PAY Six Hundred Fifty-Five & no/100 Dollars $*******655.00

TO THE ORDER OF

DIRECTOR OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE

⑈828330⑈ ⑆043301601⑆ 118⑈6695⑈

COPY

CLB:JLB:lba

TEA BREWING SYSTEM

Completed Issue Fee Transmittal
RS Check # 928330 - $655
Return receipt postcard

The dating stamp of the Patent and Trademark Office on this card will be taken as an indication that the accompanying paper was filed.

Ser. No. 10/076,253
Paper Dated 7/15/2004
Atty's File No. 01-410-US
Le-Nature's

OIPE JC68
JUL 19 2004
PATENT & TRADEMARK OFFICE

7-26-04

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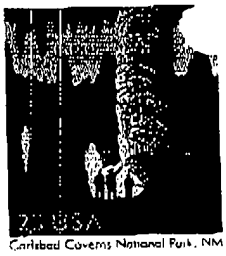

REED SMITH LLP
P.O. Box 488
Pittsburgh, Pennsylvania 15230

ATTN: Jody Burtner

27

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SEP 15 2004
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UNITED STATES PATENT AND TRADEMARK OFFICE

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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/076,253	02/13/2002	GREGORY J. PODLUCKY	01-410-US

LOUIS A. DEPAUL, ESQ
REED SMITH L.L.P.
P. O. BOX 488
PITTSBURGE. PA. 05230-0488

EXAMINER	
WEIER, A. J.	
ART UNIT	PAPER NUMBER
1761	

DATE MAILED: 09/20/04

NOTICE OF RESCINDED ABANDONMENT

☐ In response to your communication filed _____

☐ Through inadvertence, a Notice of Abandonment was mailed in the above-identified application. The Notice of Abandonment is hereby rescinded. ~~The issue fee receipt will be mailed within six weeks.~~

for Brenda J. Moore
Manager, Publishing Division
Office of Patent Publication

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

Joe Zheng
SecretSEAL Inc.
7394 Wildflower Way
Cupertino, CA 95014

MAILED

MAR 27 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
Rossmann Alain et al.
Application No. 10/076,254
Filed: February 12, 2002
For: METHOD AND ARCHITECTURE FOR PROVIDING PERVASIVE SECURITY TO DIGITAL ASSETS

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on June 17, 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 petition was supplemented on September 10, 2002.

The September 10, 2002 submission was styled as a Response to Decision on Petition by Applicant and a Request for Reconsideration, in which applicant referenced a decision of July 9, 2002. However, no such decision exists. A call was made to the petitioner, Mr. Joe Zheng, wherein Mr. Zheng clarified that the reference to the decision of July 9, 2002 was erroneous.

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**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121
(703) 605-0586 (facsimile)

RAR/tpl: 3/26/03

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JAN 1 2 2007

OFFICE OF PETITIONS

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

In re Application of

ROSSMANN, et al.
Application No. 10/076, 254
Filed: February 12, 2002
Attorney Docket No. SS-004

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 20, 2006.

The request is **APPROVED**.

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

The request was signed by Susan Yee on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ALAIN ROSSMANN**
663 NEWELL AVENUE
PALO ALTO, CA 94303

cc: **RYAN MORRISON**
INVENTION LAW GROUP
1756-114TH AVENUE SE, SUITE 110
BELLEVUE, WA 98004

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/076,254	02/12/2002	Alain Rossmann	SS-004

CONFIRMATION NO. 8579

OC000000021976927

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

Date Mailed: 01/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/20/2006.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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Paper No. 19

HAROLD LEVINE, ESQ.
BANK OF AMERICA PLANO TOWER
SUITE 755
101 EAST PARK BOULEVARD
PLANO, TX 75074

COPY MAILED

FEB 2 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Shrader	:	
Application No. 10/076,257	:	ON PETITION
Filed: February 13, 2002	:	
Attorney Docket No. S300-9901-013C	:	

This decision concerns the February 17, 2004 "Petition to Revive and Continued Examination Request" which is being properly treated as a petition under 37 CFR 1.137(b) to revive the above-referenced application.

The petition is **GRANTED.**

On March 28, 2003, a final Office action was mailed, setting forth a 3-month shortened statutory reply period.

On May 19, 2003, a proposed "Amendment After Final Rejection" was filed, requesting reconsideration of the March 28, 2003 final Office Action, but, as indicated in the May 28, 2003 Advisory Action, did not place the application in condition for allowance.

On June 30, 2003 (Certificate of Mailing date June 25, 2003), a proposed amendment (Amendment C) was filed with a request for a 1-month extension of time and the extension-of-time fee, and, as stated in the July 9, 2003 Advisory Action, again did not place the application in condition for allowance and was not entered by the Examiner. The Advisory Action pointed out that the period for responding to the March 28, 2003 final Office Action remained that set forth in that Office action.

On July 24, 2003, Applicant requested an additional 2-month extension of time, but no further response was filed.

Since no proper reply was filed on or before September 29, 2003 (Monday), the application became abandoned on September 29, 2003.

The instant petition encloses a Request for Continued Examination (RCE) as reply to the March 28, 2003 final Office Action, the $385 RCE filing fee (small entity), and the $665 petition fee (small entity). In addition, the petition requests to use the June 30, 2003 proposed amendment (Amendment C) as the RCE "submission" required by 37 CFR 1.114, and states in essence that

the entire delay in filing a proper reply to the March 28, 2003 final Office Action from the due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

The application is hereby revived for establishing continuity with the RCE.

The application file is being returned to Technology Center 3700 for continued examination.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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Paper No. 13

FLEIT KAIN GIBBONS GUTMAN BONGINI & BIANCO
750 SOUTHEAST THIRD AVENUE, SUITE 100
FL. LAUDERDALE, FL 33316-1153

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FEB 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Denis Eon Solomon	:	
Application No. 10/076,266	:	ON PETITION
Filed: February 15, 2002	:	
Attorney Docket No. None	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 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 June 6, 2004.

The Power of Attorney and Designation of Domestic Representative filed on December 27, 2004 is entered and made of record.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

The file is being forwarded to Technology Center AU 1615.

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

Attachments: Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

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JUL 17 2002

OFFICE OF PETITIONS

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

In re Application of
Licht
Application No. 10/076,268
Filed: February 19, 2002
Attorney Docket No. LICHT=4

DECISION GRANTING PETITION

This is a decision on the May 13, 2002 petition requesting that the above-identified application be accorded a filing date of February 19, 2002.

The United States Patent and Trademark Office (hereinafter "USPTO") received this application on February 19, 2002. However, on March 12, 2002, the Office of Initial Patent Examination (hereinafter "OIPE") mailed a "Notice Of Incomplete Nonprovisional Application" (hereinafter "notice") noting that the application had not been granted a filing date due to Applicant's failure to include drawings in this application. The notice further stated that the filing date would be the date of receipt of the omitted specification unless a petition was filed that successfully showed that the missing item(s) had been included with the application

Petitioner responded with the May 13, 2002 filing of this petition. The petition included a copy of the postcard receipt. The copy of applicants' postcard receipt indicates receipt of the drawings, figures 1-8, with the rest of the application on February 19, 2002.

In view of the above, it is concluded that the complete application was filed on February 19, 2002, and the drawings were later misplaced in the PTO. Accordingly, *this petition is* ***granted***.

The $130.00 petition fee for this petition is accordingly unnecessary.

The application is being returned to OPIE for further processing with a filing date of February 19, 2002, using the copy of the figures supplied with this petition.

Any questions regarding this decision should be directed to Petitions Attorney Scott M. Ledford at (703) 306-5593.

Scott M. Ledford
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

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APR 15 2005

TECHNOLOGY CENTER 3600

Lawrence S. Dieterich
P.O. Box 72095
Davis, CA 95617-2095

In re Application of	:	
Lawrence Stephen Dieterich	:	DECISION ON PETITION
Application No. 10/076,275	:	TO WITHDRAW THE
Filed: February 14, 2002	:	HOLDING OF ABANDONMENT
For: FOLDING TIE		

This is a decision on applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on June 25, 2004 and again on October 18, 2004.

The petition is **DISMISSED**.

A review of the file record reveals that a restriction/election requirement was issued December 16, 2003. Because no response to the restriction/election requirement of December 16, 2003 was filed, the application was abandoned and a notice to that effect was mailed October 18, 2004.

Applicant's petition states that a response to the restriction/election requirement of December 16, 2003 was filed on January 8, 2004 and states that a copy of date stamped post card receipt of January 12, 2004 is provided as evidence. The post card receipt referenced by applicant has not been provided, nor has a copy of the response filed on January 8, 2004. A copy of the complete submittal of January 8, 2004 and the post card receipt must be submitted.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/jwk: 4/10/05

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SEP 22 2005

TECHNOLOGY CENTER 3600

Lawrence S. Dieterich
P.O. Box 72095
Davis CA 95617-2095

In re Application of	:	
Dieterich, Lawrence S.	:	**DECISION ON PETITION**
Application No. 10/076,275	:	**TO WITHDRAW THE**
Filed: February 15, 2002	:	**HOLDING OF ABANDONMENT**
For: FOLDING TIE	:	

This is a decision on applicant's renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on May 09, 2005.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a response to the Office action (Restriction Requirement) mailed December 16, 2003, which set a one-month shortened statutory period. A Notice of Abandonment was mailed on October 18, 2004 stating that reply was received on June 25, 2004 (with a Certificate of Mail or Transmission dated June 22, 2004) which was after the period for reply which expired on January 16, 2004.

Petitioner contends that a response was filed on January 08, 2004 by mail. In support thereof, petitioner submits, a copy of a returned postcard receipt allegedly stamped by the Patent and Trademark Office on January 12, 2004. The postcard submitted is insufficient evidence of a timely reply as it is illegible (copy attached).

The copy of the response bears a Certificate of Transmission/Mailing signed by Lawrence S. Dieterich and dated January 08, 2004.

In this regard, any petition to withdraw the holding of abandonment based upon a Certificate of Transmission/Mailing must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission/Mailing which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the original response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512), <u>by the person who signed the certificate</u>.

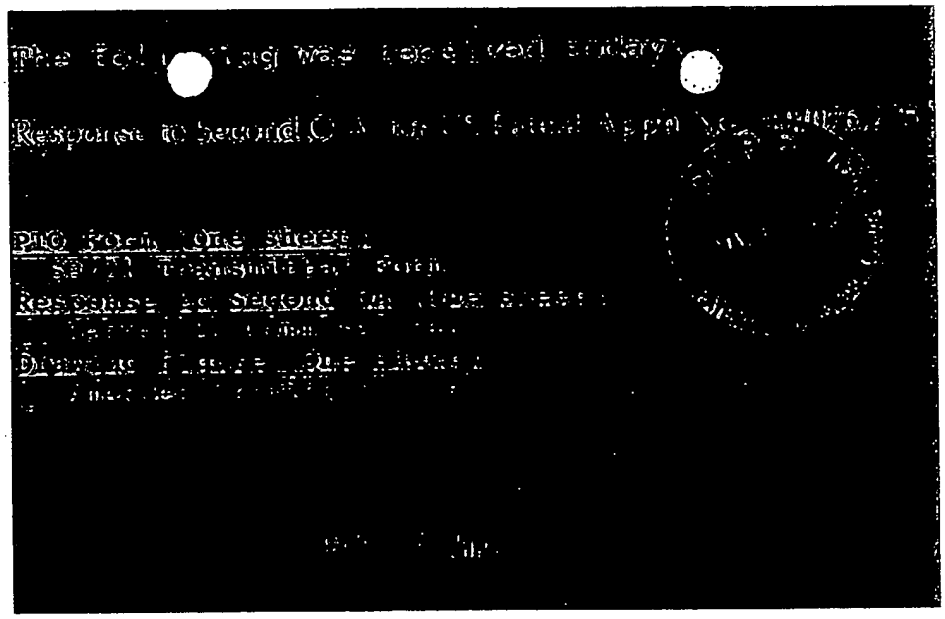
While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the original

response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate, in this instance Lawrence S. Dieterich.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/rjc 08/01/05



The following was received today:

Response to Second O.A. for US Patent Appn No. [illegible]

PTO Form (One Sheet):

[illegible] Transmittal Form

Response to Second [illegible] (One Sheet):

[illegible]

Drawing Figure (One Sheet):

[illegible]

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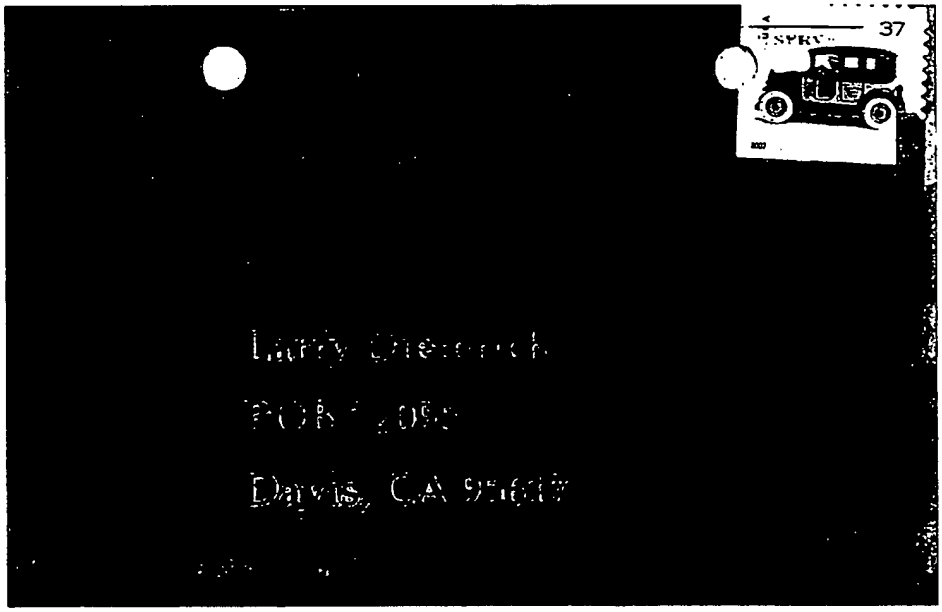

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TECHNOLOGY CENTER 3600

Lawrence S. Dieterich
P.O. Box 72095
Davis CA 95617-2095

In re Application of	:	
Lawrence S. Dietrcih	:	**DECISION ON PETITION**
Application No. 10/076,275	:	**TO WITHDRAW THE**
Filed: February 14, 2002	:	**HOLDING OF ABANDONMENT**
For: FOLDING TIE	:	

This is a decision on applicant's renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on October 03, 2005.

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 __January 08, 2004 . and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

☐ Originally sent response, filed _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

RAR/rjc: 10/17/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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Paper No. 10

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OBLON SPIVAK MCCLELLAND MAIER &
NEUSTADT PC
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

In re Application of:
Ando, et al.
Application No. 09/076,277
Filed: February 19, 2002
For: INFORMATION STORAGE SYSTEM CAPABLE OF RECORDING AND PLAYING BACK A PLURALITY OF STILL PICTURES

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed August 29, 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.

Reinhard J. Eisenzopf
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4711

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Paper No. 7

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DEC 1 2 2002

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TECHNOLOGY CENTER 2600

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

In re Application of:
Ando Hideo et al
Application No. 10/076,284
Filed: February 19, 2002
For: **INFORMATION STORAGE SYSTEM CAPABLE OF RECORDING AND PLAYING BACK A PLURALITY OF STILL PICTURES**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed August 09, 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.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

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Paper No. 5

PENNIE & EDMONDS, LLP
3300 HILLVIEW AVENUE
PALO ALTO CA 94304

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SEP 03 2002

OFFICE OF PETITIONS

In re Application of	:	
Dilip Gajendragadkar	:	
Application No. 10/076,315	:	DECISION DISMISSING
Filed: 13 February, 2002	:	PETITION AS MOOT
Attorney Docket No. 10320-007-999	:	

This is a decision on the petition under 37 CFR 1.10(c) filed on 25 March, 2002, requesting that the above-identified application be accorded a filing date of 13 February, 2002.

Petitioner alleges that the application was deposited in Express Mail service on 13 February, 2002. In support, on 25 March, 2002, petitioner supplied a copy of Express Mail receipt No. EL452482366US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file) bearing a date-in of 02/23/02.

A review of the Office PALM records reveals that this application was previously accorded a filing date of 13 February, 2002. Therefore, the present petition is unnecessary and will be dismissed as moot.

The application is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of 13 February, 2002, and for issuance of a corrected Filing Receipt.

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

D Wood

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

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DARCELL WALKER
8107 CARVEL LANE
HOUSTON, TX 77036

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OCT 12 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of
Calusinski, Jeffrey David
Application No. 10/076,336
Filed: February 14, 2002
Attorney Docket No. AUS920011018US1

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 20, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

Liana Chase Walsh
Petitions Examiner
Office of Petitions

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CHOATE, HALL & STEWART LLP
EXCHANGE PLACE
53 STATE STREET
BOSTON MA 02109

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OFFICE OF PETITIONS

In re Application of
W. Peter Hansen et al. :
Application No. 10/076,363 : ON PETITION
Filed: February 15, 2002 :
Attorney Docket Number: 2004229-0031 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 31, 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 September 23, 2004. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned December 24. 2004. Accordingly, a Notice of Abandonment was mailed April 27, 2005.

Petitioner files the instant petition under 37 CFR 1.137(b). [1]

The petition also seeks to have a terminal disclaimer filed in the instant application on December 10, 2004 withdrawn. Such a request requires review under 37 CFR 1.182.

The general rule is that a recorded terminal disclaimer may be withdrawn before the application in which it is filed issues as a patent. As there was no requirement for a terminal disclaimer in this matter and since the withdrawal of the terminal disclaimer will not have an affect on the rejection of the claims indicated in the non-Final Office Action or the amendment filed with the instant petition, the request for withdrawal of the terminal disclaimer, treated under is 37 CFR 1.182, 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 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)).

This matter is being referred to Technology Center 2877 for appropriate action on the amendment filed May 31, 2005 and for a withdrawal of the terminal disclaimer filed December 10, 2004.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 31 2002

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~~JUL 30 2002~~

RECEIVED: 8-5-02
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 8-5-02
Type of Resp(s):
Due Date(s):

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

OIPE
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MAY 12 2003
TECHNOLOGY CENTER 2800

In re Application of
Vierira, et al.
Application No. 09/908,888
Filed: July 20, 2001
For: Fabrication Of A Wavelength Locker Within A Semiconductor Structure
Attorney Docket No. 211692US99

: RESPONSE TO PETITION
: UNDER 37 CFR 1.182
: SEEKING SPECIAL
: TREATMENT OF DISCLOSURE
: STATEMENTS, AND
: DECISION ON PETITION
: UNDER 37 CFR 1.183
: SEEKING WAIVER OF
: REQUIREMENTS UNDER
: 37 CFR 1.98

This is a response to a petition under 37 CFR 1.182 filed on April 12, 2002 and supplements filed on July 1, 2002 and on July 12, 2002. The § 1.182 petition requests special treatment of disclosure statements filed pursuant to 37 CFR 1.98. Additionally, the petition requests waiver of the rules which waiver is treated as a request under 37 CFR 1.183, for relief from the current requirements for Information Disclosure Statements under 37 CFR 1.98. The request for special treatment and waiver are made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.182 petition also contains a request seeking permission to submit prior art submissions on compact disc and the establishment and searching of an Official classification(s) based on the prior art submission. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing paper copies of references in each of many related applications where the references are being cited by Petitioner.

The petition under 37 CFR 1.182 requesting special treatment of disclosure statements, and the petition under 37 CFR 1.183 regarding the submission of a reduced number of paper copies of IDS references is **GRANTED IN PART** to the extent set forth below.

The Decision is set forth in five parts:

- Part I. Background
- Part II. Petition Under 37 CFR 1.182 - Special Treatment
- Part III. Petition Under 37 CFR 1.183 - Paper Copies
- Part IV. Summary
- Part V. Further Correspondence

Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 330 U.S. applications (either filed or to be filed) relating to

different aspects of an invention listed in the July 1, 2002 supplement to the petition. An appendix prepared by Technology Center 2800 indicates approximately 300 of the applications have been classified for examination in Technology Center 2800. The balance of about 30 applications are in five other Technology Centers. The July 12, 2002 supplement to the petition indicates that an Information Disclosure Citation List has in excess of 400 reference citations.

Petitioner's submission of an Information Disclosure Statement is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98.

Part II. Petition Under 37 CFR 1.182 - Special Treatment

The petition requests the establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

As is the case with all search Digests, their creation and usefulness is continually evaluated. The Office will create and place appropriate references in Digests as they are discovered. The Office will not commit to placement of each IDS citation, made in all of the bulk filing applications, in any Digest(s) as the particular relevancy of the citations at this time is uncertain because petitioner has supplied no explanation of any of the citations. The Office will not require that any digest(s) created be searched for each of the bulk filing applications as the appropriate search for any particular application is within the determination and discretion of individual examiner based on the claim(s) of that application.

The petition also mentions the submission of additional copies of the references on compact disc for the examiner's convenience which appear to be courtesy copies. Courtesy copies will not be made part of the Official record of any application and cannot be relied upon for meeting any requirement for the submission of an information disclosure statement. There is insufficient information in the petition concerning the data formats and software requirements to accord the compact discs any other status. Further, as discussed below, the Office has a procedure for electronically submitting citations without paper copies for an Information Disclosure Statement. Hence it is not clear why relief is required under § 1.182. In view of the relief granted below, and that no specific action is requested concerning the compact disc submission, no further discussion of the compact discs is required in this decision.

Petition under § 1.182 is Dismissed.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, pages 600-118 and 600-119.

Paper copies: Petitioner notes that the instant application is one of about 330 bulk filing applications that will be or have been filed in regard to a particular technology. Accordingly, Petitioner requests that individual paper copies of each citation brought to the attention of the Office in regard to the instant individual application, the "holding" application, not be required to be submitted in each related "bulk filing" application. Rather, it is requested that three complete sets of paper copies be permitted to be filed as a substitute for filing in each application.

Rather than be required to submit, via a paper copy, 400 reference in each of 330 applications, Petitioner seeks to have:

(1) Three complete sets of paper copies of each IDS citation submitted;

(2) One application (the instant application) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of U.S. patents to be submitted in only the "holding" application;

(3) The other related pending U.S. applications, hereafter referred to as the "bulk filing" applications, be exempt from containing a paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, a copy of the Form 1449 (or equivalent). The petition does not indicate whether the paper references that are to be submitted as a numbered compendium, which numbering will correspond to the numbering in a PTO-1449 form.

(4) The information supplied via the bulk filing IDS will be updated approximately monthly.

Once past the initial IDS submission, the petition proposes the waiver to apply to updates.

Suspension of action: In view of the use of the instant application as a holding application (to contain a complete set of paper copies of reference citations, which can be consulted by the examiner when examining any of the other bulk filing applications that have a Form 1449 but not the paper copies of the references), the petition does not address how upon allowance the instant holding application will be treated. Whether the application can remain as the holding application without a suspension of action is not addressed. An alternative not discussed in the petition is that an alternate application may be designated as the holding application.

Termination: Petitioner does not seek a specific right of termination. Termination by the Office is to be by written notice to the attorney giving a 2 month period. Termination by Petitioner is to be by returning to compliance with 37 CFR § 1.98. The Office will accept and specifically reserve the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Termination by Applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

Different Technology Centers: It appears from the petition that Petitioner intends to cite every reference cited in any of the 330 applications in every other application. No references will be omitted because they are less relevant or cumulative of those already of record in a particular application. At least 30 of the applications are of such divergent technologies that they are in 5 technology centers outside Technology Center 2800. The applications outside Technology Center 2800 will be examined in areas without convenient access to the paper copies in Technology Center 2800. The 5 other technology centers have requested more access to the paper copies than the relief granting this petition for all 330 applications will afford. It is not clear from the petition why citing every reference in every application when they are in such diverse technologies is necessary or required by § 1.56. Relieving petitioner of the burden of filing paper copies in applications outside Technology Center 2800 will create an additional burden on the examiners of those applications. It is also possible for applicant to comply with 37 CFR 1.98 for U.S. Patents and Patent application publications by submitting references via "e-IDS.[1]" Hence it appears that petitioner has not demonstrated why a waiver for those applications filed outside Technology Center 2800 is necessary.

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of U.S. patents in over 300 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available to different examiners handling the various applications, on balance, there is seen to be sufficient benefit to justify waiver in this instance for the applications filed in Technology Center 2800. With respect to those applications being examined outside

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[1]The instructions for submitting an e-IDS can be downloaded at: http://www.uspto.gov/ebc/efs/downloads/documents/EFSePAVE_April23.pdf.

Technology Center 2800, on balance, the burden on petitioner is substantially less to provide an additional paper copy for each application with significantly less benefit to the Office waiving the requirement. Further with respect to other 30 applications the need to submit these references has not been established nor has petitioner addressed alternative methods of compliance.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below.

The § 1.98(a)(2) requirement for (the submission of) a copy of each IDS citation in a bulk filing application will be waived in the bulk filing applications examined in Technology Center 2800 provided that the following 9 conditions are complied with:

1) Three paper copies of each IDS citation are or have been submitted to the Office;

2) Each (bulk filing) application for which waiver of § 1.98(a)(2) is desired refers to the instant holding application, such as by a claim of priority under 35 U.S.C. 120, or as containing related technology;

3) The information is or has also been cited in the holding application;

Note: Applicant is not required to cite in each bulk filing application every item of information that is cited in the instant holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the instant holding application.

4) A copy of this Decision is filed in each bulk filing application for which waiver is requested;

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), once submitted in the holding application must be supplied in each bulk filing application where the citation is made.

6) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

7) The grant of the § 1.183 petition re § 1.98(a)(2) does

not indicate that the Office would favorably treat a petition to suspend action under § 1.103(a) should the instant holding application be allowed. Issuance of the instant application as a patent is not seen to terminate its usefulness either: (1) as a holding application for references by examiners working on other related applications, or (2) as a vehicle for the storage of references to be cited even after the patent issues (35 U.S.C. 301, 37 CFR 1.501, and MPEP 2202). Should the instant application become abandoned, the issue of continued introduction of paper copies of new citations could be taken up at that time. The Office, however, may consider suspending or taking other appropriate action in the instant holding application in the event the holding application is allowed, if it is in the best interest of the Office to do so.

8) There will be no waiver of any aspects of 37 CFR 1.98 in any application after allowance or final rejection of that application.

9) The copies will be submitted as a compendium with the reference numbering in the Form 1449 corresponding to the presentation of the references in the compendium.

Part IV. Summary

The petition under 37 CFR 1.182 requesting special treatment by creation of special digests and accepting compact disc submissions is dismissed because there is no showing that the relief granted below under 37 CFR 1.183 is not sufficient for compliance with 37 CFR 1.56.

The petition under 37 CFR 1.183 agreeing to supply three copies of each IDS citation in a holding application and requesting waiver of the paper copy requirement for submission in every related application under § 1.98(a)(2) is granted for those applications examined in Technology Center 2800, however, the following is not agreed to:

- the waiver of supplying a paper copy of each reference in applications examined outside Technology Center 2800.
- the creation of Official search classifications and the mandatory search thereof.
- The establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

Part V. Further Correspondence

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

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

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	10125540	1631
	9984471	1641
	9624877	1725
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	9911493	1743
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215295US-8737-8737-99	09983326	2829

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205915US-8737-9737-99	09624803	2834
211916US-8737-8737-99	09911487	2839
217731 US-8737-8737-99	10026812	2841
	10151950	2851
217354US-8737-8737-99	10020898	2861
205972US-8737-873799	09624698	2872
205939US-8737 837-99	09669602	2873
205950U"737-8737-99	09607236	2874
205951 US-8737-8737-99	09607744	2874
205947US-8737-8737-99	09608807	2874
209409U$-8737-8737-99	09870836	2874
209162US-8737r8737-99	09870837	2874
217678US-8737-8737-99	09908885	2874
210824US-8737-8737-99	09909906	2874
211854US-8737-8737-99 -	09911457	2874
211808US-8737-8737-99	09911466	2874
211807US-8737-8737-89	09911469	2874
211911 US-8737-8737-99	09911472	2874
21195705-8737-8737-99	09911492	2874
21209905-8737-8737-99	09918802	2874
21209805-8737-8737-99	09919927	2874
212950US-8737-8737-99	09929019	2874
215539US-8737-8737-99-CONT	09983866	2874
205949 US-8737-8737-99	09607237	2876
205944US-8737-8737 99	09609262	2877
209403US-8737-8737-99	09870831	2877
209338US-8737-8737-99	09870832	2877
209695US-8737-8737-99	09882067	2878
209402US'.8737-8737-99	09870835	2881
210794US-8737-8737-99	09899996	2881
211427US-8737-8737-99	09906782	2881
21242505-8737-8737-99	09921895	2881
212426US-8737.-8737-99	09921896	2881
212590US-8737-8737-99	09927393	2881
209342US-87378737-99	09870833	2882
	9905115	3662
	9911420	3663
	09607722	3736

By FAX: (703) 872-9005

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

Telephone inquiries should be directed to Michael L. Lewis at (703)306-5585.

Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: TC Assignment Appendix

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 18

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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MAR 1 9 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yusuke Yamada et al :
Application No. 10/076,455 :
Filed: February 19, 2002 :
Attorney Docket No. 00684.003331 :

This is a decision on the petition, filed March 18, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on March 3, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2852 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 8, 2007

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No. 10/0076455 patent No.: 7039347

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

DAVID M. GRAY
SUPERVISORY PATENT EXAMINER

SPE

2852
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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Mailed: DEC 13 2004

BC
Paper No.

In re application of
Mark C. Huth et al.
Serial No. 10/076,467
Filed: February 15, 2002
For: LASER MICROMACHINING AND METHODS AND SYSTEMS OF SAME

DECISION ON PETITION

This communication is in response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed August 25, 2004, for failure to respond to the Office Action dated December 1, 2003. On November 23, 2004, the applicants filed a request to withdraw the Petition filed on August 25, 2004 in favor of a newly submitted PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a).

Accordingly, this Petition is herein **DISMISSED**.

Upon the mailing of this communication, the newly submitted PETITION UNDER 37 CFR 1.137(a) will be forwarded to the Office of Petitions for consideration.

JMStone

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

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 90527-2400

UNITED STATES PATENT AND TRADEMARK OFFICE

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 90527-2400

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MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Huth et al.	:	
Application No. 10/076,467	:	ON PETITION
Filed: February 15, 2002	:	
Attorney Docket No. 10013443	:	

This is a decision on the petition under 37 CFR 1.137(a) filed November 23, 2004. Upon further review of the record, the petition is being treated as a request to withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the Office action mailed on December 1, 2003. A Notice of Abandonment was mailed on July 28, 2004. Petitioner asserts that a proper response was timely filed; however, the application number in the heading of the response identified application No. "10/067,467" rather than the intended application No. "10/076,467."

The originally filed response was located in the file of application No. 10/067,467. A review of the correspondence indicates that it was received in the United States Patent and Trademark Office (Office) on December 19, 2003, but was not matched with the file due to the incorrect application number.

Under current Office procedure, a response that has an incorrect application number is handled in accordance with MPEP Section 502. 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 which were submitted, it is concluded that there was sufficient information thereon to associate the papers with the present application file.

For the reasons stated above, the Notice of Abandonment is hereby withdrawn and the application is returned to pending status.

The petition is **GRANTED**.

No fee is required for a petition to withdraw the holding of abandonment. Therefore, the $130.00 petition fee will be credited to petitioner's Deposit Account No. 08-2025.

The matter is being referred to Technology Center Art Unit 1754.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 0 7 2006

OFFICE OF PETITIONS

MARK A. KOCH
866 Main Street East
Hamilton, ON L8M 1L9
CANADA

In re Application of:
BEAUCHAMP, Fern
Application No.: 10/076,481
Filing Date: February 19, 2002
Attorney's Docket No.: 409p5
For: COMBINATION SCREW DRIVER AND BIT HOLDER

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

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-entitled application, filed December 20, 2005.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed April 07, 2004, which set a shortened statutory period of reply of three (3) months. On June 25, 2004, applicants filed an Amendment in response to the final Office Action. However, as indicated in the Advisory Action mailed August 16, 2004, the Amendment was not sufficient to place the application in condition for allowance. Accordingly, the application was abandoned as of midnight on July 07, 2004.

On December 20, 2005, applicants filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of a Request For Continued Examination (RCE), with fee (the Amendment previously filed on June 25, 2004 satisfies the submission requirement of 37 CFR 1.114). Accordingly, the reply to the final Office action of April 07, 2004 (in the form of the RCE and submission) is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 3723

Telephone inquiries concerning this decision should be directed to the undersigned.

Richard M. Ross
Attorney Advisor
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

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SEP 0 1 2005

OFFICE OF PETITIONS

In re Patent No. 6,759,828 :
Issue Date: July 6, 2004 :
Application No. 10/076,491 : ON PETITION
Filed: February 19, 2002 :
Patentee(s): Takeshi Konno :

This is a decision on the petition under 37 CFR 1.55(a)(2), filed June 21, 2004, for entry of priority papers submitted after the date the issue fee was paid.

The petition is **GRANTED**.

The Office acknowledges receipt of priority papers under 35 USC 119, filed on June 21, 2004, which have been placed of record in the above patent.

Office records show that petitioner requested a Certificate of Correction on May 2, 2005 and that the Certificate of Correction was issued on June 28, 2005. Therefore, this patent file is being referred to Files Repository.

A courtesy copy of the Certificate of Correction is enclosed for petitioner's records.

The Office sincerely apologizes for the delay in responding to the instant petition and any inconvenience caused to petitioner by this delay.

Any questions concerning this decision should be directed to Andrea Smith at (571) 272-3226. Any questions concerning the Certificate of Correction should be directed to the Certificate of Corrections Branch at (703) 305-8305.

Frances Hicks
Petitions Examiner
Office of Petitions

Enclosure: Courtesy copy of the Certificate of Correction signed and sealed on June 28, 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT
1755 JEFFERSON DAVIS HIGHWAY
FOURTH FLOOR
ARLINGTON, VA 22202

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MAR 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Hideaski Yoshida et al :
Application No. 10/076,508 : ON PETITION
Filed: February 19, 2002 :
Attorney Docket No. 219891US2 DIV :

This is a decision on the petition, filed February 4, 2004, to correct the assignment data on Form PTOL-85(b).

The petition is **granted**.

If the printing of the patent has progressed to the point where the corrected assignee data cannot be printed on the patent, petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 1.323.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

MCINTYRE-LILLEY
INTELLECTUAL PROPERTY MANAGEMENT SERVICES
SUITE #12
2000 SOUTH 2ND STREET
ARLINGTON, VA 22204

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JUN 0 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Enami et al.	:	
Application No. 10/076,593	:	ON PETITION
Filed: February 19, 2002	:	
Attorney Docket No. WC-01-11-01.00	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 17, 2004, (originally submitted on March 8, 2004) to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed March 20, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 21, 2002. A Notice of Abandonment was mailed on December 15, 2003.

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

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

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

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

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McIntyre-Lilley
Intellectual Property Management Services
Suite #12
2000 South 2nd Street
Arlington, VA 22204

MAILED

APR 04 2005

Technology Center 2100

In re Application of:
Katsuya ENAMI, et al.
Application No. 10/076,593
Filed: February 19, 2002
For: ELECTRONIC DEVICE WITH PLURAL INTERFACE PORTS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed January 24, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 **further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.**

There is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED.**

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

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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)
6824089	2004-11-30	10076638	2002-02-16	TGR100C

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	/Dean B. Watson/	Date (YYYY-MM-DD)	2009-01-06
Name	Dean B. Watson	Registration Number	43242

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. 6824089
Issue Date: November 30,2004
Application No. 10076638
Filed: February 16,2002
Attorney Docket No. TGR 100C

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

This is a decision on the electronic petition, filed January 6,2009 ,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 January 6,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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OFFICE OF PETITIONS

HAYNES AND BOONE, LLP
901 MAIN STREET
SUITE 3100
DALLAS TX 75202-3789

In re Application of

Robert Lance Cook, et al.
Application No. 10/076,660
Filed: February 15, 2002
Attorney Docket No. 25791.76

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 18, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: TODD MATTINGLY
KING & SPALDING, LLP
1100 LOUISANIA STREET
SUITE 4000
HOUSTON, TX 77002

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Paper No. 6

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

DORSEY & WHITNEY LLP
Intellectual Property Department
370 Seventeenth Street
Suite 4700
Denver, CO 80202-5647

In re Application of
Michael R. ABATO
Application No. 10/076,689
Filed: February 14, 2002
For: SYSTEM AND PROCESS FOR CREATING A VIRTUAL STAGE AND PRESENTING ENHANCED CONTENT VIA THE VIRTUAL STAGE

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Reprsentation filed October 7, 2003.

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

The request is **GRANTED**.

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

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

cc: Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 300
McLean, VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

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AUG 12 2005

OFFICE OF PETITIONS

In re Application of
Ramamurthy, et al.
Application No. 10/076,718
Filed: March 10, 2005
Docket No.: DDC 0576 PUS
For: SYSTEM AND METHOD FOR BACKPRESSURE COMPENSATION FOR CONTROLLING EXHAUST GAS PARTICULATE EMISSIONS

: DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed June 6, 2005.

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

Petitioner has shown that inventor Ravishankar Ramamurthy has refused to sign the declaration after having been presented with the application papers.

Thus, 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 (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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P.O. BOX 1450
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Ravishankar Ramamurthy
285 Carson Drive
Westland, Michigan 48185

In re Application of Ramamurthy, et al. Application No. 11/076,718 Filed: March 10, 2005 Atty. Dkt. No.: DDC 0576 PUS For: SYSTEM AND METHOD FOR BACKPRESSURE COMPENSATION FOR CONTROLLING EXHAUST GAS PARTICULATE EMISSIONS	: LETTER	COPY MAILED AUG 12 2005 OFFICE OF PETITIONS

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 (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 22 2004

In re Application of Cynthia Lewis Serial No: 10/076,756 Filed: February 13, 2002 For: REFRIGERATOR SHELF LINER SYSTEM	:	DECISION ON PETITION TO WITHDRAW AS ATTORNEY

By papers filed on September 20, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the correspondence address for this application is:

Cynthia L. Lewis
4360 Dobie Drive
Saint Joseph, MI 49085

E. Rollins-Cross, Director
Technology Center 3700

Michael S. Neustel
Neustel Law Offices, Ltd.
2534 South University Drive, Suite 4
Fargo, ND 58103

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SMITH MOORE LLP
P.O. BOX 21927
GREENSBORO, NC 27420

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OFFICE OF PETITIONS

In re Application of
Helmut Brehm, et al. :
Application No. 10/076,770 : ON PETITION
Filed: February 14, 2002 :
Attorney Docket No. 5003073-027US1 :

This is a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee, filed May 26, 2004.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid, April 23, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

After a decision on the Petition under 37 CFR 1.78(a)(3) has been reached, the file will be referred to Technology Center 1714 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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JUN 01 2004

OFFICE OF PETITIONS

In re Application of	:
Helmut Brehm et al	: DECISION ON PETITIONS
Application No. 10/076,770	: UNDER 37 CFR 1.78(a)(3)
Filed: February 14, 2002	: AND UNDER 37 CFR 1.55(c)
Attorney Docket No. 5003073-027US1	:

This is a decision on the petition, filed May 26, 2004, which is being treated as a petition under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed May 26, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of prior-filed PCT Application No. PCT/EP00/07742, filed August 9, 2000, and under 35 U.S.C. § 119(a)-(d) for the benefit of prior-filed German Application No. 199 39 661.2, filed August 20, 1999.

The petitions are **DISMISSED**.

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

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

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

The instant petition complies with items (1)-(3).

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date in accordance with 37 CFR 1.63(c)(2) or in an Application Data Sheet in accordance with 37 CFR 1.78(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant petition does not comply with item (2) above.

A review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet in accordance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6). Instead, the claim for foreign priority was improperly made as an amendment to the first line of the specification on page 1. Unless provided in an Application Data Sheet, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent or inventor's certificate for which priority is claimed under 37 CFR 1.55, and any foreign applications having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14, page 200-87 (Rev. 1, Feb. 2003), last paragraph, second column.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition and accompanying amendment. Additionally, a substitute amendment which deletes the claim for foreign priority must also be submitted. *Note* 37 CFR 1.121. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c)."

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:[1] 2011 South Clark Place
Crystal Plaza Two, Lobby
Room 1B03
Arlington, VA 22202

By FAX: [2] (703) 872-9306
ATTN: Office of Petitions

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

Frances Hicks

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

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[1] Effective December 1, 2003, the Office of Petitions can no longer directly receive hand-carried correspondence. The centralized location for hand-carried correspondence is the Customer Window now located at the address given.

[2] Effective December 1, 2003, the Office of Petitions can no longer directly receive facsimile transmissions of correspondence.

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OFFICE OF PETITIONS

SMITH MOORE LLP
P O BOX 21927
GREENSBORO, NC 27420

In re Application of	:
Helmut Brehm et al	: DECISION ON PETITIONS
Application No. 10/076,770	: UNDER 37 CFR 1.78(a)(3)
Filed: February 14, 2002	: AND UNDER 37 CFR 1.55(c)
Attorney Docket No. 5003073-027US1	:

This is a decision on the renewed petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed June 24, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of prior-filed PCT Application No. PCT/EP00/07742, filed August 9, 2000, and under 35 U.S.C. § 119(a)-(d) for the benefit of prior-filed German Application No. 199 39 661.2, filed August 20, 1999.

The petitions are **GRANTED**.

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

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(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 14, 2002, and was pending at the time of filing of the instant petition. A reference to the above-noted, prior-filed PCT application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii) and in an Application Data Sheet (ADS).

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

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for

the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date in accordance with 37 CFR 1.63(c)(2) or 37 CFR 1.78(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The above-identified pending nonprovisional application was filed on February 14, 2002, which is after November 29, 2000, and the intermediate PCT application, which was filed on August 9, 2000, was filed within 12 months of August 20, 1999, which is the earliest filing date of the foreign application to which benefit is claimed. The ADS filed on June 24, 2004 also identifies the foreign application for which priority is claimed. The $1,330 surcharge fee required has been received. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)- (d) is granted.

A corrected Filing Receipt, which includes the priority claim to the prior-filed PCT application, and the foreign priority claim, accompanies this decision on petition.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2), as well as 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55 must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

This application is being referred to Technology Center Art Unit 1714 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application and for consideration of the claim for priority under 35 U.S.C. § 119(a)-(d) for the benefit of the foreign application as set forth in the concurrently filed amendment and ADS.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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NOV 8 2004

In re Application of Brehm et al. Serial No. 10/076,770 Filed: February, 14 2002 For: WATER-ABSORBING POLYMERS HAVING INTERSTITIAL COMPOUNDS, A PROCESS FOR THEIR PRODUCTION, AND THEIR USE	: : : : : : : : :	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 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 Vasu Jagannathan (571) 272-1119.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

SMITH MOORE LLP
P.O. BOX 21927
GREENSBORO NC 27420

cc: Allowed Files

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Commissioner for Patents
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E. I. DU PONT DE NEMOURS AND COMPANY
Legal Patent Records Center
Barley Mill Plaza 25/1128
4417 Lancaster Pike
Wilmington, DE 19805

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OFFICE OF PETITIONS

In re Application of	:	
Saverio Carl FALCO et al.	:	
Application No. 10/076,785	:	ON PETITION
Filed: February 15, 2002	:	
Attorney Docket No. BB1336USCIP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 16, 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 May 5, 2005, which set a shortened statutory period for reply of three (3) months. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, by operation of law, the above-identified application became abandoned on September 6, 2005.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/303,558, filed December 16, 2005.

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 $1,020 extension of time fee submitted with the petition on December 16, 2005 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 Charles A. Marmor, II at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

David A. Bucci
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. 6

GARY B. SOLOMON
JENKENS & GILCHRIST, P.C.
1445 ROSS AVENUE, SUITE 3200
DALLAS, TX 75202-2799

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MAY 0 3 2002

OFFICE OF PETITIONS

In re Application of :
David A. Norman :
Application No. 10/076,795 :
Filed: February 12, 2002 :
Attorney Docket No. 50097-00008USPT :

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

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,711,995	2004-03-30	10/076,798	2001-10-22	M-242

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	/Victor F. Lohmann, III/	Date (YYYY-MM-DD)	2008-07-22
Name	Victor F. Lohmann, III	Registration Number	33951

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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6711995
Issue Date: March 30,2004
Application No. 10076798
Filed: October 22,2001
Attorney Docket No. M-242

:

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

:

This is a decision on the electronic petition, filed July 22,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 22,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

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

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JAN 1 0 2005

OFFICE OF PETITIONS

In re Application of
Gray, et al.
Application No. 10/076,802
Filed: February 13, 2002
Attorney Docket No. 11055US01
For: EUKARYOTIC SIGNAL SEQUENCES FOR PROKARYOTIC EXPRESSION

ON PETITION

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

The above-identified application became abandoned for failure to reply in a timely manner to non-final Office action, mailed March 19, 2004, which set a period for reply of one (1) month. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on April 20, 2004. A Notice of Abandonment was mailed on December 13, 2004.

Applicants have submitted a proper reply in the form of an election, an acceptable statement of the unintentional nature of the delay in responding to the March 19, 2004 non-final Office action, and the petition fee.

The petition is **GRANTED**.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

After the mailing of this decision the application will be forwarded to Technology Center GAU 1636.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: Janet M. McNicholas, Ph.D.
McAndrews, Held & Malloy, Ltd.
500 West Madison Street, 34th Floor
Chicago, IL 60661

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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MAY 23 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Gray, et al. :
Application No. 10/076,802 :
Filed: February 13, 2002 :
Attorney Docket No. 014907-004700US :

This is a decision on the petition under 37 CFR 1.137(b), filed April 20, 2006, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed November 3, 2005. Accordingly, this application became abandoned on February 4, 2006. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Applicants have submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the November 3, 2005 Notice of Allowance and Fee(s) Due, and the petition fee.[1]

The petition is **granted**.

The change in correspondence address filed on April 20, 2006 will not be entered because it is not signed by a specifically empowered practitioner.

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

[1] The statement of unintentional delay was signed by a person who may not have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office. A courtesy copy of this decision is being mailed to practitioner. However, any future correspondence regarding this application will be mailed to the address of record.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

CC: MICHAEL B. HARLIN
McAndrews Held and Malloy, Ltd.
500 West Madison Street, 34th Floor
Chicago, IL 60661

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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MAIL

Paper No. 10

DECHERT LLP
P.O. BOX 10004
PALO ALTO CA 94303

JAN 29 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Abadi et al.
Application No. 10/076,820
Filed: February 15, 2002

For: **METHOD FOR AVOIDING BROADCAST DEADLOCKS IN A MESH-CONNECTED NETWORK**

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on December 9, 2003.

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

Attorney/Agent Leah Sherry and all attorney/agents of record and those associated with Customer Number 37509 requesting the withdraw are withdrawn.

Accordingly, the request is **GRANTED**.

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

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

cc:
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400
Attn: Richard P. Lange

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

Pennie & Edmunds LLP
3300 Hillview Avenue
Palo Alto CA 94304

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SEP 1 0 2002

OFFICE OF PETITIONS

In re Application of Majumdar et al. Application No. 10/076,838 Filed: February 13, 2002 Attorney Docket No. 9840-066-999	: : : : :	DECISION DISMISSING PETITION AS MOOT

This is a decision on the petition filed March 15, 2002, requesting that the above-identified application be accorded a filing date of February 13, 2002.

The petition is **dismissed as moot.**

The United States Patent and Trademark Office records indicate that the presently accorded filing date of the above-identified application is February 13, 2002. Therefore, the petition is moot.

The application file is being returned to Technology Center 1600.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paul C. Haughey
TOWNSEND AND TOWNSEND ND CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 9411-3834

MAILED

APR 0 4 2005

Technology Center 2100

In re Application of:
Kumar Gajjar
Application No. 10/076,855
Filed: February 13, 2002
For: STORAGE VIRTUALIZATION AND STORAGE MANAGEMENT TO PROVIDE HIGHER LEVEL STORAGE SERVICES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 16, 2005.

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

The request filed March 16, 2005 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: Jordan Becker
BLAKELY SOKOLOFF TAYLOR ZAFMAN LLP
1279 Oakmead Parkway
Sunnyvale, CA 94086

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN, LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085

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OFFICE OF PETITIONS

In re Application of	:	
GAJJAR, et al.	:	
Application No. 10/076,855	:	DECISION ON PETITION
Filed: February 13, 2002	:	TO WITHDRAW
Attorney Docket No. **20949P-000300US**	:	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 30, 2007.

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

A review of the file record indicates that the power of attorney to **BLAKELY SOKOLOFF TAYLOR & ZAFMAN, LLP** has been revoked by the assignee of the patent application on April 6, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NETWORK APPLIANCE/BLAKELY**
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HELIOS, INC.
3150 STATE STREET
BLACKSBURG, VA 24060

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OFFICE OF PETITIONS

In re Application of
Dan A. Steinberg, Jasean Rasnake and
David Sherrer
Application No. 10/076,858
Filed: February 14, 2002
For: MICROMACHINED STRUCTURES MADE BY COMBINED WET AND DRY ETCHING

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

This is in response to the "Petition Under 37 CFR 1.47(a)," filed August 13, 2002.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on February 14, 2002 without an executed oath or declaration and naming Dan A. Steinberg, Jasean Rasnake and David Sherrer as joint inventors.

Accordingly, on March 13, 2002, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and filing fee, and the surcharge for their late filing.

In response, on August 13, 2002, the instant petition; a statement by joint-inventor David Sherrer which states joint-inventor Dan Steinberg refuses to

sign the declaration; a Declaration executed by all the inventors except Dan Steinberg; the $130.00 petition fee, the filing fee; surcharge and a three (3) month extension of time were filed.

A grantable petition under 37 CFR 1.47(a) requires:

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

Applicant lacks items (1), as set forth above.

As to item (1), Applicant has not demonstrated that Mr. Steinberg was presented with the application papers (specification, claims and drawings). Unless Mr. Steinberg was presented with a copy of the application papers (specification, claims and drawings), Mr. Steinberg could not attest that he has "reviewed and understands the application papers" and therefore could not sign any declaration which he was given. See Manual of Patent Examining Procedure, Section 409.03(d). Petitioner should show that a copy of the application papers was presented to the inventor, but that he did not respond to, or that he expressly refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application.

Please note, the "Power Of Attorney Or Authorization of Agent" submitted August 13, 2002, has not been accepted because it must be signed by <u>all</u> of the inventors or the assignee of record of the entire interest. See MPEP 402.10. As such, the petitioner herein is not 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.

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-9200.

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

cc.
MARIA ELISEEVA
BROWN RUDNICK BERLACK ISRAELS, LLP
ONE FINANCIAL CENTER
BOSTON, MA 02111

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WASHINGTON, D.C. 20231
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HELIOS, INC.
3150 STATE STREET
BLACKSBURG, VA 24060

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OFFICE OF PETITIONS

In re Application of
Dan A. Steinberg, Jasean Rasnake and
David Sherrer
Application No. 10/076,858
Filed: February 14, 2002
For: MICROMACHINED STRUCTURES
MADE BY COMBINED WET AND DRY
ETCHING

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed August 13, 2002.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on February 14, 2002 without an executed oath or declaration and naming Dan A. Steinberg, Jasean Rasnake and David Sherrer as joint inventors.

Accordingly, on March 13, 2002, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and filing fee, and the surcharge for their late filing.

In response, on August 13, 2002, the instant petition; a statement by joint-inventor David Sherrer which states joint-inventor Dan Steinberg refuses to

sign the declaration; a Declaration executed by all the inventors except Dan Steinberg; the $130.00 petition fee, the filing fee; surcharge and a three (3) month extension of time were filed.

A grantable petition under 37 CFR 1.47(a) requires:

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

Applicant lacks items (1), as set forth above.

As to item (1), Applicant has not demonstrated that Mr. Steinberg was presented with the application papers (specification, claims and drawings). Unless Mr. Steinberg was presented with a copy of the application papers (specification, claims and drawings), Mr. Steinberg could not attest that he has "reviewed and understands the application papers" and therefore could not sign any declaration which he was given. See Manual of Patent Examining Procedure, Section 409.03(d). Petitioner should show that a copy of the application papers was presented to the inventor, but that he did not respond to, or that he expressly refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application.

Please note, the "Power Of Attorney Or Authorization of Agent" submitted August 13, 2002, has not been accepted because it must be signed by <u>all</u> of the inventors or the assignee of record of the entire interest. See MPEP 402.10. As such, the petitioner herein is not 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

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address of record until such time as appropriate instructions are received to the contrary.

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-9200.

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

cc.
MARIA ELISEEVA
BROWN RUDNICK BERLACK ISRAELS, LLP
ONE FINANCIAL CENTER
BOSTON, MA 02111

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JONATHAN D. BASKIN
EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON MA 02205

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In re Patent No. 6,964,804	:	
Issue Date: November 15, 2005	:	
Application No. 10/076,858	:	NOTICE UNDER 37 CFR. 1.28(c)
Filed: February 14, 2002	:	
Attorney Docket No. 51969 (ACT-183/184)	:	

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 **NOT ACCEPTED**.

A one-month non-extendable time period under § 1.136(a) to avoid the return of the fee deficiency paper, is given to comply with the requirements under 1.28(c)(2)(ii).

Any request for reconsideration of this decision should be filed within one (1) month from the mail date of this decision.

The fee deficiency cannot be accepted because no itemization has been submitted, as required by 37 CFR 1.28(C) (ii) which states:

(2) Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

MAILED

MAY 12 2005

Technology Center 2100

In re Application of:
Richard MEYER, et al.
Application No. 10/076,878
Filed: February 13, 2002
For: METHOD FOR DEVICE SECURITY IN A HETEROGENEOUS STORAGE NETWORK ENVIRONMENT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed March 16, 2005.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on April 6, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Blakely, Sokoloff, Taylor & Zafman, LLP as the attorney(s) of record of the instant application. The Power of Attorney of April 6, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Blakely, Sokoloff, Taylor & Zafman, LLP.

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

No further communication to you regarding this application will be made.

For

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

NATIONAL INSTITUTES OF HEALTH
P.O. BOX 2903
MINNEAPOLIS MN 55402

In re Application of	:	
Michael Guttman et al	:	
Application No. 10/076,882	:	DECISION ON PETITION
Filed: February 14, 2002	:	
Attorney Docket No. 11613.50USU1	:	

This is a decision on the Communication, filed January 15, 2008, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The Office sincerely apologizes for any inconvenience caused petitioner in this matter.

This application was technically held abandoned for failure to timely respond to the Office action of January 14, 2004, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before April 14, 2004.

Petitioner states that a timely reply was mailed via certificate of mailing on April 14, 2004, which included the following papers: Response to the Office Action mailed January 14, 2004. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated April 14, 2004, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of January 14, 2004 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed on April 14, 2004.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This application is being referred to Technology Center AU 3737 for appropriate action in the normal course of business on the reply received with petition.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS, MINNESOTA 55402-0903

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

JAMES W INSKEEP
OPPENHEIMER WOLFF & DONNELLY
840 NEWPORT CENTER DRIVE
SUITE 700
NEWPORT BEACH, CA 92660

COPY MAILED

JUN 1 0 2002

OFFICE OF PETITIONS

In re Application of	:	
Douglas J. Duchon et al	:	
Application No. 10/076,895	:	NOTICE
Filed: February 14, 2002	:	
Attorney Docket No. 11906-346	:	

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

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

Paul C. Haughey
TOWNSEND AND TOWNSEND AND CREW, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

MAILED

APR 11 2005

Technology Center 2100

In re Application of:
Myer, Richard
Application No. 10/076,906
Filed: February 13, 2002
For: FAILOVER PROCESSING IN A STORAGE SYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 16, 2005.

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

The request filed March 16, 2005 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: Jordan Becker
BLAKELLY SOKOLOFF TAYLOR ZAFMAN LLP
1279 Oakmead Parkway
Sunnyvale, CA 94086

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 3

MAIL

JAN 13 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Martin J. Jaquez, Esq.
JAQUEZ & ASSOCIATES
750 B Street, Suite 2640
San Diego CA 92101

In re Application of :
Brian Banister :
Application No. 10/076,925 :
Filed: February 14, 2002 :
For: **METHOD AND APPARATUS FOR APPLYING OVERLAID PERTURBATION VECTORS FOR GRADIENT FEEDBACK TRANSMIT ANTENNA ARRAY ADAPTATION** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on November 25, 2002.

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

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys and agents of record in this application are removed from record.

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

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: LSI LOGIC CORPORATION
1551 McCarthy BLVD.
Milpitas, CA 90535

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DIW 07-02

#5

Paper No. 5

LAHIVE & COCKFIELD
28 STATE STREET
BOSTON MA 02109

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JUL 15 2002

OFFICE OF PETITIONS

In re Application of	:
O'Hara et al.	: DECISION GRANTING
Application No. 10/076,934	: PETITION
Filed: 15 February, 2002	:
Attorney Docket No. GNN-028	:

This is a decision on the petition under 37 CFR 1.10(c) filed on 19 June, 2002, requesting that the above-identified application be accorded a filing date of 15 February, 2002, rather than the presently accorded filing date of 19 February, 2002.

Petitioner alleges that the application was deposited in Express Mail service on 15 February, 2002. In support, on 19 June, 2002, petitioner supplied a copy of Express Mail Label No. EL939865930US (the same Express Mail number found on the provisional application cover sheet accompanying the original application papers located in the official file). Although the "date-in" on the Express Mail label is not legible, the Express Mail label also contains a USPS postmark dated 15 February, 2002.

In view of the above, the petition is granted. No petition fee is required and none has been charged.

The application is being returned to the Office of Initial Patent Examination (OIPE) for correction of the filing date to 15 February, 2002, and for issuance of a corrected Filing Receipt.

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

D Wood

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

Date has been corrected

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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FOLEY HOAG, LLP/WYETH
PATENT GROUP, (w/WYS)
155 SEAPORT BLVD.
BOSTON MA 02210-2600

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DEC 04 2008

In re Application of	:	
Richard M. O'Hara Jr., et al	:	
Application No. 10/076,934	:	DECISION GRANTING PETITION
Filed: February 19, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. WYS-00701	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 3, 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 October 16, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

It is noted that petitioner signed the request for continued examination with the date of November 10, 2008. However, evidence has been provided to show that the intended date is that of December 3, 2008.

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

This application is being referred to Technology Center AU 1644 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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OFFICE OF PETITIONS

FOLEY HOAG, LLP/WYETH
PATENT GROUP, (w/WYS)
155 SEAPORT BLVD.
BOSTON MA 02210-2600

In re Application of	:	
O'Hara, et al.	:	PATENT TERM ADJUSTMENT
Application No. 10/076,934	:	
Filed: February 15, 2002	:	
Atty Docket No. WYS-00701	:	

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed October 16, 2008. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 137 days to 594 days.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was mailed July 16, 2008. The instant application for patent term adjustment and issue fee payment were timely filed October 16, 2008. Prior to a decision on the application for patent term adjustment being rendered, on December 3, 2008, applicants filed a petition to withdraw from issue along with a request for continued examination (RCE). The application was withdrawn from issue December 4, 2008.

Nevertheless, applicants request correction of the adjustment on the basis that the Office will take in excess of three years to issue this patent and also in light of the recent court decision in *Wyeth v. Dudas*, No. 07-1492 (D.D.C. September 30, 2008).

A decision in this regard is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term for Office failure to issue the patent within three years. *See*, 37 CFR 1.703(b).

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment

of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Technology Center AU 1644 has been advised of this decision. The application is, thereby, forwarded to the Technology Center 1644 for consideration of the RCE by the examiner.

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

Kery Fries

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

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OFFICE OF PETITIONS

FOLEY HOAG, LLP (w/WYS)
PATENT GROUP
155 SEAPORT BLVD.
BOSTON MA 02210-2600

In re Patent No. 7,531,168	:	DECISION ON REQUEST FOR
O'HARA et al.	:	RECONSIDERATION OF
Issue Date: May 12, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/076,934	:	NOTICE OF INTENT TO ISSUE
Filed: February 15, 2002	:	CERTIFICATE OF CORRECTION
Attorney Docket No. WYS-00701	:	

This is a decision on the petition filed on July 8, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred ninety-four (594) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The term of the above-identified patent is extended or adjusted by **four hundred seventy-three (473) days**.

A review of the application history reveals that a period of reduction of 43 days was entered under 37 CFR 1.704(c)(10) for the filing of a "REQUEST TO RE-APPLY FEES PREVIOUSLY PAID" on March 31, 2009. It is noted that the submission of a Fee(s) Transmittal (PTOL-85B) is identified as one of the papers the filing of which the Director has specifically deemed not to be a "failure to engage in reasonable efforts" within the meaning of 37 CFR 1.704 (c)(10). See MPEP 2732. Under the circumstances, no reduction is warranted for the filing of the paper requesting

only that the previously paid issue fee be reapplied. Thus, the reduction of 43 days is not merited and will be removed.

The record further reveals that patentee have been assessed delay under 37 CFR 1.704(c)(10) for the submission of the Supplemental Information Disclosure Statement (IDS) on November 6, 2008, the Request for Continued Examination (RCE) and IDS on November 10, 2008, and the petition to withdraw from issue on December 3, 2008.

37 CFR 1.704(c)(10) provides:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

In this instance, it is undisputed that patentee submitted the IDS on November 6, 2008, the RCE and IDS on November 10, 2008, and the petition to withdraw from issue on December 3, 2008, after the mailing of the notice of allowance on July 16, 2008 (and payment of the issue fee on October 16, 2008). Furthermore, a review of IDS submitted on November 6, 2008, and November 10, 2008, reveals that they did not include a proper statement under § 1.704(d).[1] Thus, patentee failed to engage in reasonable

---

[1] The Office reminds patentee that 37 CFR 1.704(d) was revised, effective May 24, 2004. Specifically, "Section 1.704(d) [was] amended to change 'cited in a communication' to 'first cited in any communication' in order to clarify that the item must have been first cited in **any communication** from a foreign patent office in a counterpart application **instead of merely being cited in such a communication**." 69 FR 21704 (Apr. 22, 2004) (Emphasis added). Therefore, the required statement under 37 CFR 1.704(d) reads, in pertinent part, that:

efforts to conclude prosecution of the application pursuant to 37 CFR 1.704(c)(10).

Pursuant to 37 CFR 1.704(c)(10), patentee should have been assessed the following periods of reduction:

- 56 days for the submission of the IDS on November 6, 2008, after the mailing of the notice of allowance (and payment of the issue fee), from November 6, 2008, the date the IDS was filed, to December 31, 2008, the mailing date of the notice of allowance in response to the IDS.

- 52 days for the submission of the RCE and IDS after the mailing of the notice of allowance (and payment of the issue fee) on November 10, 2008, from November 10, 2008, the date the RCE and amendment were filed, to December 31, 2008, the mailing date of the notice of allowance in response to the RCE and IDS; and,

- 2 days for the submission of the petition to withdraw from issue after the mailing of the notice of allowance (and payment of the issue fee) on December 3, 2008, from December 3, 2008, the date the petition was filed, to December 4, 2008, the mailing date of the decision in response to the petition.

37 CFR 1.704(c) provides that "[c]ircumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application … will result in the following reduction of the period of adjustment set forth in § 1.703 <u>to the extent that the periods are not overlapping</u>." (Emphasis added).

> [E]ach 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.

(Emphasis added).

In this instance, the periods under 37 CFR 1.704(c)(10) overlap. Specifically, the period of reduction for the submission of the IDS on November 6, 2008, from November 6, 2008 to December 31, 2008, completely overlaps the other periods of reduction. Therefore, a single period of reduction of 56 days will be entered.

With regard to the delay under 37 CFR 1.702(b), patentee is reminded that the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the B delay period. Thus, the over three year period begins on February 16, 2005, and ends on May 17, 2006, the day before the RCE was filed, and is 456 (not 457) days. See 35 U.S.C. 154(b)(1)(B)(i).

Further, the Office notes that patentee failed to account for the filing of the notice of appeal on March 15, 2006. The Office reminds patentee that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii).

In this instance, the period consumed by appellate review is 64 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, March 15, 2006, and ending on the day before the filing of the RCE, May 17, 2006. Thus, B delay is 392 days (456 - 64).

In view of the above, the patent term adjustment is 473 days (507 days of A delay + 392 days of B delay - 426 days of applicant delay).

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

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e).

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office

will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred seventy-three (473) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT: 7,531,168 B2

DATED: May 12, 2009 **DRAFT**

INVENTOR(S): O'Hara 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 94 days

Delete the phrase "by 94 days" and insert – by 473 days--

PALM INTRANET

Day : Sunday
Date: 5/9/2010
Time: 14:50:12

PTA Calculations for Application: 10/076934			
Application Filing Date:	02/15/2002	PTO Delay (PTO):	507
Issue Date of Patent:	05/12/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	413
Post-Issue Petitions:	0	Total PTA (days):	473
PTO Delay Adjustment:	379		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
145	05/09/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	392		
144	05/09/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	392		
143	05/09/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		392	
142	05/09/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		56	
141	05/09/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	43		
136.5	04/22/2009	PTA 36 MONTHS			
136	05/12/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
135	04/06/2009	EXPORT TO FINAL DATA CAPTURE			
134	04/03/2009	DISPATCH TO FDC			
133	04/02/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
132	03/31/2009	ISSUE FEE PAYMENT VERIFIED			
131	03/31/2009	MISCELLANEOUS INCOMING LETTER		43	
130	03/31/2009	ISSUE FEE PAYMENT RECEIVED			
128	03/24/2009	MAIL-PETITION DECISION - DISMISSED			
127	03/24/2009	PETITION DECISION - DISMISSED			
126	01/02/2009	EXPORT TO INITIAL DATA CAPTURE			
125	12/31/2008	MAIL NOTICE OF ALLOWANCE			
124	12/29/2008	ISSUE REVISION COMPLETED			
123	12/29/2008	DOCUMENT VERIFICATION			
122	12/29/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
121	12/22/2008	NOTICE OF ALLOWABILITY			
120	11/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
119	12/22/2008	DATE FORWARDED TO EXAMINER			
		REQUEST FOR CONTINUED EXAMINATION			

118	11/10/2008	(RCE)			
117	12/22/2008	DISPOSAL FOR A RCE / CPA / R129			
112	12/04/2008	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
111	12/04/2008	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
110	12/03/2008	PETITION ENTERED			
108	10/28/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
107	11/10/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
106	11/06/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
105	11/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
104	11/10/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
103	11/06/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
102	11/06/2008	REFERENCE CAPTURE ON IDS			
101	11/06/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
100	10/16/2008	PETITION ENTERED			
99	10/16/2008	ISSUE FEE PAYMENT VERIFIED			
98	10/16/2008	ISSUE FEE PAYMENT RECEIVED			
97	09/17/2008	FINISHED INITIAL DATA CAPTURE			
96	07/24/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
95	07/18/2008	EXPORT TO INITIAL DATA CAPTURE			
94	10/28/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
93	07/16/2008	MAIL EXAMINER'S AMENDMENT			
92	07/16/2008	MAIL NOTICE OF ALLOWANCE			
91	07/14/2008	ISSUE REVISION COMPLETED			
90	07/14/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
89	07/14/2008	CASE DOCKETED TO EXAMINER IN GAU			
88	07/14/2008	DOCUMENT VERIFICATION			
87	07/14/2008	EXAMINER'S AMENDMENT COMMUNICATION			
86	07/14/2008	NOTICE OF ALLOWABILITY			
82	05/07/2008	DATE FORWARDED TO EXAMINER			
81	04/24/2008	RESPONSE AFTER NON-FINAL ACTION			

80	05/05/2008	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
79	01/24/2008	MAIL NON-FINAL REJECTION			
78	01/22/2008	NON-FINAL REJECTION			
77	10/31/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
76	10/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	70
75	10/31/2007	REFERENCE CAPTURE ON IDS			
74	10/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
73	11/24/2007	DATE FORWARDED TO EXAMINER			
72	10/31/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
71	11/24/2007	DATE FORWARDED TO EXAMINER			
70	10/31/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
69	11/24/2007	DISPOSAL FOR A RCE / CPA / R129			
68	10/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
67	10/31/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
66	09/26/2007	MAIL ADVISORY ACTION (PTOL - 303)			
65	09/25/2007	ADVISORY ACTION (PTOL-303)			
64	09/11/2007	DATE FORWARDED TO EXAMINER			
63	09/10/2007	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
62	09/10/2007	NOTICE OF APPEAL FILED		94	56
61	09/10/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
58	08/04/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
57	08/04/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	03/08/2007	MAIL FINAL REJECTION (PTOL - 326)			
55	03/05/2007	FINAL REJECTION			
54	02/01/2007	DATE FORWARDED TO EXAMINER			
53	01/25/2007	RESPONSE AFTER NON-FINAL ACTION		92	49
52	01/25/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
51	12/26/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			

50	12/20/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
49	07/25/2006	MAIL NON-FINAL REJECTION			
48	07/20/2006	NON-FINAL REJECTION			
47	05/24/2006	DATE FORWARDED TO EXAMINER			
46	03/15/2006	RCE- AF PROCESSED			
45	05/24/2006	DATE FORWARDED TO EXAMINER			
44	05/18/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
43	05/24/2006	DISPOSAL FOR A RCE / CPA / R129			
42	05/18/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
41	04/10/2006	MAIL ADVISORY ACTION (PTOL - 303)			
40	04/05/2006	ADVISORY ACTION (PTOL-303)			
39	03/27/2006	CORRESPONDENCE ADDRESS CHANGE			
38	03/27/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
37	03/17/2006	DATE FORWARDED TO EXAMINER			
36	03/15/2006	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
35	03/15/2006	NOTICE OF APPEAL FILED		91	33
34	03/15/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	09/14/2005	MAIL FINAL REJECTION (PTOL - 326)			
32	09/12/2005	FINAL REJECTION			
31	07/08/2005	DATE FORWARDED TO EXAMINER			
30	06/27/2005	RESPONSE AFTER NON-FINAL ACTION		92	27
29	06/27/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
28.7	06/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	06/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	12/27/2004	MAIL NON-FINAL REJECTION			
26	12/21/2004	NON-FINAL REJECTION			
25	11/10/2004	DATE FORWARDED TO EXAMINER			
24	11/02/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
23	11/02/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	11/02/2004	WORKFLOW INCOMING AMENDMENT IFW			
21	09/03/2004	MAIL RESTRICTION REQUIREMENT	507		-1

20	09/01/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
19	06/28/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	04/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
17	07/10/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
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14	06/19/2002	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
13	06/19/2002	NEW OR ADDITIONAL DRAWING FILED			
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9	06/19/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	06/19/2002	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
7	07/15/2002	MAIL-RECORD PETITION DECISION OF GRANTED RELATED TO FILING DATE			
6	06/19/2002	PETITION ENTERED			
5	03/18/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	03/14/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	03/02/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	02/19/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	02/19/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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MESMER & DELEAULT, PLLC
41 BROOK STREET
MANCHESTER NH 03104

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OFFICE OF PETITIONS

In re Application of	:	
Dean et al.	:	
Application No. 10/076,937	:	ON PETITION
Filed: February 15, 2002	:	
Attorney Docket No. dean0202con	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 17, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE (with requisite fee) 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 1600 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) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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LEONARD BLOOM
SENIRO COUNSEL
ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS
502 WASHINGTON AVENUE, SUITE 220
TOWSON MD 21204

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
John M. Haltmeyer :
Application No. 10/076,948 :
Filed: February 19, 2002 :
Attorney Docket No. HALTMEYER-PA-2 :

This is a decision on the petition, filed May 31, 2007 under 37 CFR 1.137(b) which is being treated as a petition, under 37 CFR 1.181(a) (no fee) to Withdraw Holding of Abandonment.

The petition under 37 CFR 1.181(a) is **GRANTED**.

A Nonfinal Rejection was mailed on October 5, 2005, with a statutory period for reply of (3) three months. On April 3, 2006, an amendment, notice of appeal, and a three month extension of time were filed. Since the Office action was a nonfinal rejection and the claims were not twice rejected, the filing of the notice of appeal was improper. However, the filing of the amendment, along with the three month extension of time on April 3, 2006, was proper and timely filed.

In view of the above, the Notice of Abandonment is hereby **vacated** and the holding of abandonment **withdrawn**.

Petitioner may request a refund of the petition to revive fee ($750) under 37 CFR 1.137(b), by writing to the Office of Finance Refund Section. A copy of this decision should accompany the request.

Further, the power of attorney submitted on November 14, 2007 is not in compliance with 37 CFR 3.73(b).

This matter is being referred to Technology Center AU 2132 to consider the amendments filed April 3, 2006 and on May 31, 2007.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
LAWRENCE E. LAUBSCHER, JR.
1160 SPA ROAD
SUITE 2B
ANNAPOLIS, MD 21403

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/076,948	02/19/2002	John M. Haltmeyer	HALTMEYER-PA-2

CONFIRMATION NO. 3414

IMPROPER CPOA LETTER

OC000000027030162

Leonard Bloom
Senior Counsel
Armstrong, Kratz, Quintos, Hanson & Brooks, LLP
502 Washington Avenue, Suite 220
Towson, MD 21204

Date Mailed: 12/03/2007

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/14/2007. The Power of Attorney in this application is not accepted for the reason(s) listed below:

- The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received.

/kocreasy/

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

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MCCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Thomas HUBER, et al	:	
Application No. 10/076,949	:	DECISION ON PETITION
Filed: February 12, 2002	:	TO WITHDRAW
Attorney Docket No. 577172003500	:	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 and January 17, 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 Adam Keser, on behalf of all attorneys of record who are associated with Customer No. 43997.

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 address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed January 25, 2007 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: INTELLOCITY USA, INC.
1400 MARKET STREET
DENVER, CA 80202

cc: MARC KAUFMAN, ESQ.
NIXON PEABODY LLP
401 9TH STREET, N.W. ,
SUITE 900
WASHINGTON, D.C. 20004

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/076,949	02/12/2002	Thomas Huber	577172003500

CONFIRMATION NO. 3402

OC000000023883239

43997
OPTV/MOFO
C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN, VA 22102

Date Mailed: 05/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/17/2007.

- 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.

Diane Goodwyn

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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In re Application of	:	
Ian Zenoni	:	
Application No. 10/076,950	:	DECISION ON PETITION
Filed: February 12, 2002	:	TO WITHDRAW
Attorney Docket No. 577172003300	:	FROM RECORD
	:	

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

The request is **NOT APPROVED**.

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

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

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

There is an outstanding Office action mailed September 26, 2006 that requires a reply by the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of
Ian Zenoni
Application No. 10/076,950
Filed: February 12, 2002
Attorney Docket No. INTE.22USU1 (ITC27)

DECISION ON PETITION
TO WITHDRAW
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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MAR 30 2005

Shinju Global IP Counsellors, LLP
1233 20th Street, NW
Suite 700
Washington, DC 200036-2680

In re Application of	:
Shuichi Hirayama	:
Application No. 10/076,956	: DECISION ON PETITION
Filed: February 19, 2002	:
Attorney Docket No. SN-US025009	:

This is a decision on the petition filed on January 19, 2005 by which petitioner requests that a new Office action be promulgated to replace the final rejection dated September 24, 2004 that is alleged to be defective. Petitioner also requests entry of a previously filed amendment that was refused entry after the final rejection. The petition is being considered under 37 CFR 1.181, and no fee is required for the petition.

The petition is granted.

It appears from the record that the final rejection dated September 24, 2004 included an Office Action Summary Form PTOL-326 that indicates on its face that claim 28 was finally rejected. It further appears from the record that the text of the Office action does not specifically include a rejection of claim 28. A review of the final rejection shows that it would appear that the limitation added to parent claim 1 by dependent claim 28 is identical to a limitation appearing in independent claim 8. Claim 1 was rejected under 35 USC § 103 for obviousness, based upon the teachings of two prior art patents. Claim 8, an independent claim, was rejected for obviousness based upon the same two prior art patents, with the addition of a third prior art patent. The discussion of the third prior art patent supplied by the examiner is directed to the same limitation that appears in claim 28.

Petitioner alleges that the final rejection in question is incomplete. Petitioner is correct. That the examiner's action can be construed one way, does not mean that petitioner is required to construe it that way to the exclusion of the possibility that the failure to reject claim 28 was precisely what the examiner intended. Further, there is no excuse for the basis of the rejection to have been expressly set forth in an advisory action only after a previous advisory action refusing entry of claim 28 re-written in independent form had been promulgated. While it can be argued that petitioner should not have "guessed" what the examiner meant (see petition, page 2), it is certainly true that petitioner was not required to construe the examiner's action against petitioner's own interests.

Accordingly, the finality of the Office action dated September 24, 2004 is hereby vacated. The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3728 who will have the finality vacated, the amendment filed on December 12, 2004 entered as a matter of right, and will then forward the application to the examiner for immediate action not inconsistent with this Decision.

PETITION GRANTED.

E. R. Kazenske, Director
Technology Center 3700

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TECHNOLOGY CENTER 3600

Fenwick & West LLP
Silicon Valley Center
801 California Center
Mountain View, CA 94041

In re application of Nallan C. Suresh et al Application No. 10/076,961 Filed: February 15, 2002 For: SEQUENCING MODELS OF HEALTHCARE RELATED STATES	:	DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 4, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the

withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

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

As to condition (B), the Power of Attorney was given by the inventors. The inventors are therefore the clients until documentation in the form of assignment papers or a statement under 37 CFR 3.73(b) is provided.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/nlw

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Paper No. 6

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

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OCT 31 2002

OFFICE OF PETITIONS

In re Application of :
William E. Rich and :
William T. Hutchens :
Application No. 10/076,967 :
Filed: February 5, 2002 :
Title of Invention: METHOD FOR : DECISION GRANTING STATUS
CORRELATING GENE EXPRESSION PROFILES : UNDER 37 CFR 1.47(a)
WITH PROTEIN EXPRESSION PROFILES :

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 **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.

Petitioner has shown that the non-signing inventor, William T. Hutchens, refuses to sign the declaration after having been presented with the above-identified application and declaration.

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

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

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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William T. Hutchens
132 Palmer Avenue
Mountain View, CA 94043

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OCT 3 1 2002

OFFICE OF PETITIONS

In re Application of :
William E. Rich and :
William T. Hutchens :
Application No. 10/076,967 :
Filed: February 5, 2002 :
Title of Invention: METHOD FOR :
CORRELATING GENE EXPRESSION PROFILES :
WITH PROTEIN EXPRESSION PROFILES : LETTER

Dear Dr. Hutchens:

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 Derek L. Woods at (703) 305-0014. 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).

Derek L. Woods
Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

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TC 3600

LERNER AND GREENBERG, P.A.
POST OFFICE BOX 2480
HOLLYWOOD, FL 33022-2480

In re Application of Edward Sax et al. SERIAL NO: 10/076,978 FILED: February 15, 2002 FOR: FENCE CONSTRUCTION SYSTEM FOR BUILDING A FENCE WITH A WALL APPEARANCE, ETC.	: : : : : : : :	DECISION ON PETITION TO MAKE APPLICATION SPECIAL (AGE)

This is a decision on your petition submitted on September 3, 2002 to make the above referenced application special on the basis that applicant is over 65 years of age.

The petition has been found to comply with all requirements of section 708.02, part IV of the Manual of Patent Examining Procedures, and will be GRANTED for that reason.

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.

The application is being forwarded to the examiner for accelerated examination consistent with the provisions of section 708.02 of the MPEP.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
dw/kd: 09/24/02

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MCCORMICK PAULDING & HUBER
CITY PLACE II
185 ASYLUM STREET
HARTFORD CT 06103-3402

JKG/DGM
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FILE 5578-0004
FOR 10M due 6/20/04
DATE 5/25/04 BY mmd

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OFFICE OF PETITIONS

In re Application of :
Raymond G. Janick :
Application No. 10/076,983 :
Filed: February 15, 2002 :
Attorney Docket Number: 5578-04 :

ON PETITION

This is a decision on the "PETITION TO REVIVE ABANDONED APPLICATION DUE TO UNAVOIDABLE DELAY under 37 CFR §1.137(a), or in the alternative, PETITION TO REVIVE ABANDONED APPLICATION DUE TO UNINTENTIONAL DELAY under 37 CFR §1.137(b)", filed May 10, 2004.

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

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

The above-identified application became abandoned for failure to timely reply to the Notice of Allowance mailed October 22, 2003. This Office action set a statutory period for reply of three months for issue fee transmittal. No extensions of time under 37 CFR 1.136(a) were available. No issue fee having been received, the application became abandoned on January 23, 2004. A Notice of Abandonment was mailed on February 23, 2004.

Petition under 37 CFR 1.137(a):

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); and (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable. The instant petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable: "The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."[1]

With regards to item (3), petitioner asserts a docketing error on the part of the person responsible for paying the issue fee, Mr. David Lanes. However, petitioner does not present any evidence of a docketing error, such as misplaced paperwork, docketing the issue fee for a wrong date, etc. Rather, petitioner explains that Mr. Lanes instructed his patent counsel to not pay the issue fee because he did not appreciate the significance of the issue fee or of the abandonment that would result from the non-payment thereof.

Delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[2]

Accordingly, it can not be concluded that the delay at issue was "unavoidable".

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[1] In re Mattulath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

Petition under 37 CFR 1.137(b):

With the instant petition, petitioner paid the petition fee, submitted the proper reply in the form of the issue fee, and made the proper statement of unintentional delay.

The Terminal Disclaimer filed with the instant petition is not required since the application was not filed prior to June 8, 1995. Therefore, the Terminal Disclaimer has not been accepted and will not be entered, but will remain in the application file. The Terminal Disclaimer fee of $110.00 has been applied to cover the fee for the filing of the petition under 37 CFR 1.137(a).[3]

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division within **ONE (1) MONTH** from the mail date of this decision.

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

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Issue Fee Transmittal form (1 page)

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[3] 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 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee. MPEP 711.03(c)(III)(B).

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Docket Clerk
P.O. Drawer 800889
Dallas, TX 75380

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OFFICE OF PETITIONS

In re Application of	:	
Nystrom et al.	:	
Application No. 10/076,992	:	DECISION ON APPLICATION
Filed: February 15, 2002	:	FOR PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
P05169	:	

This is a decision on the "Request for Reconsideration of Patent Term Adjustment Determination Under 37 CFR 1.705(b), filed September 6, 2005. Applicants request that the initial determination of patent term adjustment at the time of the mailing of the notice of allowance be corrected from two hundred fifty-nine (259) days to five hundred sixty-five (565) days.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **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 sixty-five **(565)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 6, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 259 days. On September 6, 2005, applicants timely submitted the instant application for patent term adjustment[1]. Applicant requests correction of the Determination of Patent Term Adjustment from 259 days, as indicated on the Determination of PTA mailed June 6, 2005, to an adjustment of 565 days. Applicant asserts that the reduction of period of adjustment of patent term under 37 CFR 1.704(b) is incorrectly

[1] Office records indicate that the Issue Fee payment was also received on September 9, 2005.

declaration and a one (1) month extension of time by this office on June 11, 2002. Applicant re-filed the Declaration and Power of Attorney on April 14, 2003.

In view of the above, the reduction of period of adjustment of patent term under 37 CFR 1.704(b) should be 3 days.

The correct patent term adjustment (PTA) under 37 CFR §§ 1.702(a)(1) and 1.704(b) at the time of the allowance is 565 days. The Office will adjust the PAIR screen to reflect that the PTA determination at the time of mailing of the instant letter reflects an adjustment of 565 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

In view thereof, at the time of allowance, the application is entitled to an adjustment of 565 days.

The petition fee of $200.00 has been submitted with the instant petition.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and 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 Petitions Attorney Derek L. Woods at (571) 272-3232.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

PALM INTRANET

Day : Monday
Date: 5/8/2006
Time: 18:19:51

PTA Calculations for Application: 10/076992			
Application Filing Date:	02/15/2002	PTO Delay (PTO):	568
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	309
Post-Issue Petitions:	0	Total PTA (days):	565
PTO Delay Adjustment:	306		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
32	05/08/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	306		
25	06/06/2005	MAIL NOTICE OF ALLOWANCE	44		18
24	06/01/2005	ISSUE REVISION COMPLETED			
23	05/31/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
22	05/31/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	05/31/2005	NOTICE OF ALLOWABILITY			
20	03/22/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	03/22/2005	DATE FORWARDED TO EXAMINER			
18	12/23/2004	RESPONSE AFTER NON-FINAL ACTION		3	16
17	12/23/2004	WORKFLOW INCOMING AMENDMENT IFW			
16	09/20/2004	MAIL NON-FINAL REJECTION	524		-1
15	09/19/2004	NON-FINAL REJECTION			
14	05/26/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	04/14/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
12	03/17/2003	PRELIMINARY AMENDMENT			
11	06/01/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	04/30/2003	APPLICATION DISPATCHED FROM OIPE			
9	04/29/2003	APPLICATION IS NOW COMPLETE			
7	04/14/2003	ADDITIONAL APPLICATION FILING FEES		306	4
6	04/14/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	02/15/2002	CLAIM PRELIMINARY AMENDMENT			
4	03/12/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			

2	02/27/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/15/2002	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.

Back to PALM | ASSIGNMENT | OASIS | Home page

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)
6808550	2004-10-26	10077006	2002-02-15	201141.00013

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	/James D. Schweikert/	Date (YYYY-MM-DD)	2009-07-01
Name	James D. Schweikert	Registration Number	58057

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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In re Patent No. 6808550
Issue Date: October 26,2004
Application No. 10077006
Filed: February 15,2002
Attorney Docket No. 201141.00013

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

This is a decision on the electronic petition, filed July 1,2009 ,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 July 1,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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919 SOUTH HARRISON STREET
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AUG 1 1 2008

In re Application of	:	
Bradford B. Jensen et al.	:	
Application No. 10/077,010	:	
Patent No. 6,992,591	:	DECISION ON PETITION
Filed: February 15, 2002	:	PURSUANT TO
Issue Date: January 31, 2006	:	37 C.F.R. § 1.28(c)
Attorney Docket No. JENES-01003	:	
Title: MARKER LIGHTS FOR	:	
WIRELESS DOORBELL TRANSMITTERS	:	
AND OTHER DEVICES	:	

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on April 30, 2008. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

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.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 2023
www.uspto.gov

UR

PAPER NO. 4

In re Application of	:	
Ivars V. Ivansons et al.	:	
Serial No:10/077,038	:	PETITION UNDER
Filed: February 15, 2002	:	M.P.E.P. 708.02, IV
For: SPIN-HEMODIALYSIS ASSEMBLY AND	:	
METHOD	:	

This is in response to the petition filed April 11, 2002, 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

Connolly Bove Lodge & Hutz LLP
P.O. Box 2207
Wilmington, DE 19899-2207

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CONNOLLY BOVE LODGE & HUTZ LLP
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OFFICE OF PETITIONS

In re Application of	:	
Ivansons, et al.	:	
Application No. 10/077,038	:	ON PETITION
Filed: February 15, 2002	:	
Attorney Docket No. DENCO-53	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 15, 2004 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before February 9, 2004. Accordingly, this application became abandoned on February 10, 2004 A Notice of Abandonment was mailed on March 3, 2004.

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

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

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

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OFFICE OF PETITIONS

In re Application of
William J. Dower et al
Application No. 10/077,070
Filed: February 14, 2002
Attorney Docket No. 018547-007330US

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

This is a decision on the petition filed September 22, 2003, which is being treated under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant pending application was filed on February 14, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional

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

applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

The examiner of Technology Center Art Unit 1634 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS, TX 75265

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OFFICE OF PETITIONS

In re Application of	:	
Yan Hui, et. al.	:	
Application No. 10/077,084	:	ON PETITION
Filed: February 15, 2002	:	
Attorney Docket No. TI-33510	:	

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

The application became abandoned for failure to respond to the non-final Office action mailed November 30, 2005. A Notice of Abandonment was mailed on July 25, 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 $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This application file is being referred to Technology Center Art Unit 2616, 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: W. James Brady III
7839 Churchill Way, MS 3999
Dallas, TX 75251

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OFFICE OF PETITIONS

BIOGEN IDEC / FINNEGAN HENDERSON, LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of	:	
Browning et al.	:	DECISION ON APPLICATION
Application No. 10/077,137	:	FOR
Filed: February 15, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 08201.0027-00000	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT - PRE-GRANT filed July 10, 2009. Applicants requests that the determination of patent term adjustment be corrected from two hundred fifty-three (253) days to eight hundred fifty-five (855) days. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

To the extent 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 three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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 adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment at the time of the mailing of the Notice of Allowance, the request is **GRANTED TO THE EXTENT INDICATED**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **three hundred seventy-two (372) days**. A copy of the updated PALM screen is enclosed.

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

On April 13, 2009, the Office mailed a 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 was 253 days. The instant application for patent term adjustment was timely filed.[2] Applicants state that no terminal disclaimer has been filed.

Applicants dispute the period of reduction of 110 days[3] for the filing of the REPLY TO OFFICE ACTION on November 7, 2005. Applicants assert that the reply to the non-final Office action on July 20, 2005, was fully responsive and complete. Accordingly, applicants assert that the reduction of 110 days is not warranted. Moreover, applicants aver that a period of adjustment of 86 days pursuant to 37 CFR 1.702(a)(2) should be entered for the period from November 21, 2005, the day after the date that is four months after the reply was filed on July 20, 2005, to February 14, 2006, the date of the mailing of the final Office action.

The Office has considered applicants' arguments and finds them persuasive to an extent. 37 CFR 1.704(c)(7) provides:

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

The record supports a conclusion that the reply filed July 20, 2005, did not contain an omission. On November 7, 2005, in response to the Office communication mailed October 7, 2005, applicants noted that missing attachments 6-11 were present in the Image File Wrapper under Foreign Reference (mail room date July 20, 2005) at pages 46-65, and thus, requested the Office communication be withdrawn. Applicants further noted that they had spoken with the examiner and that she had acknowledged that the reply of July 20, 2005, as originally filed, was complete. As the examiner entered the response and amendment filed on July 20, 2005, the showing of record is that the examiner determined

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[2] PALM records indicate that the issue fee was paid on July 10, 2009.

[3] It is noted that the basis for entry of the period of reduction of 110 days is 37 CFR 1.704(c)(7), not 1.704(c)(8) as indicated by applicants.

that the reply was fully responsive. As the reply of July 20, 2005, did not have an omission, the period of reduction of 110 days, pursuant to 37 CFR 1.704(c)(7), is unwarranted and will be removed.

It is noted that in response to the reply filed July 20, 2005, the Office took action within the meaning of 37 CFR 1.702(a)(2) and 1.703(a)(2) on October 7, 2005, within four months of the date the reply was filed. No further correction of the patent term adjustment calculation is required. In response to the reply filed November 7, 2005, the Office took action within the meaning of 37 CFR 1.702(a)(2) and 1.703(a)(2), within four months by mailing an action under 35 U.S.C. 132 on February 14, 2006. The fact that the Office mailed a final Office action on February 14, 2006, does not negate the fact that the Office took action within the meaning of 35 U.S.C. 132 on October 7, 2005. Accordingly, a period of adjustment of 86 days for examination delay is not merited.

Next, applicants assert that the period of reduction pursuant to 37 CFR 1.704(b) for the filing of a reply on March 28, 2007, should be 89 days, not 98 days. Applicants' assertion is well taken.

On September 20, 2006, the Office mailed a non-final Office action. On September 29, 2006, the Office re-mailed the non-final Office action and reset the period for response as of the date of the re-mailing of the non-final Office action because the Office action was mailed under an inappropriate cover sheet.

Under the circumstances, it is appropriate to use the re-mailing date of the non-final Office action on September 29, 2006, for purposes of calculating any reduction of patent term adjustment under 37 CFR 1.704(b).

On March 28, 2007, applicants submitted a response three months and 89 days after the date of the mailing of the non-final Office action as re-mailed on September 29, 2006. Accordingly, the period of reduction of 98 days is being removed and the period of reduction of 89 days is being entered.

In view thereof, the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is 372 days (606 days of Office delay less 234 days of applicant delay).

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

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 of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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 specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PALM screen

Day : Wednesday

PALM INTRANET

Date: 2/3/2010
Time: 14:31:16

PTA Calculations for Application: 10/077137			
Application Filing Date:	02/15/2002	PTO Delay (PTO):	606
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	353
Post-Issue Petitions:	0	Total PTA (days):	372
PTO Delay Adjustment:	119		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
118	02/03/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		89	
117	02/03/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	98		
116	02/03/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	110		
102	04/13/2009	MAIL NOTICE OF ALLOWANCE			
101	04/08/2009	ISSUE REVISION COMPLETED			
100	04/08/2009	DOCUMENT VERIFICATION			
99	04/08/2009	CASE DOCKETED TO EXAMINER IN GAU			
90	04/08/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
89	04/08/2009	CASE DOCKETED TO EXAMINER IN GAU			
88	04/08/2009	NOTICE OF ALLOWABILITY			
85	03/27/2009	DATE FORWARDED TO EXAMINER			
84	03/26/2009	AMENDMENT AFTER FINAL REJECTION			
83	12/31/2008	MAIL FINAL REJECTION (PTOL - 326)			
82	12/31/2008	FINAL REJECTION			
79	10/21/2008	DATE FORWARDED TO EXAMINER			
78	09/17/2008	RESPONSE AFTER NON-FINAL ACTION		34	76
77	09/17/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
76	05/14/2008	MAIL NON-FINAL REJECTION	75		68
75	05/12/2008	NON-FINAL REJECTION			
71	11/27/2007	DATE FORWARDED TO EXAMINER			
70	10/31/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
69	11/27/2007	DATE FORWARDED TO EXAMINER			
68	10/31/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		47	64

67	11/27/2007	DISPOSAL FOR A RCE / CPA / R129			
66	10/31/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
65	10/31/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
64	06/14/2007	MAIL FINAL REJECTION (PTOL - 326)			
63	06/11/2007	FINAL REJECTION			
62	03/28/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
61	04/04/2007	DATE FORWARDED TO EXAMINER			
60	03/28/2007	RESPONSE AFTER NON-FINAL ACTION		98	55
59	03/28/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
58	11/20/2006	CORRESPONDENCE ADDRESS CHANGE			
57	09/29/2006	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
56	09/27/2006	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
55	09/20/2006	MAIL NON-FINAL REJECTION			
54	09/05/2006	NON-FINAL REJECTION			
53	06/14/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
52	06/14/2006	REFERENCE CAPTURE ON IDS			
51.7	06/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
51	06/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	06/27/2006	DATE FORWARDED TO EXAMINER			
49	06/14/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
48	06/27/2006	DATE FORWARDED TO EXAMINER			
47	06/14/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		31	43
46	06/27/2006	DISPOSAL FOR A RCE / CPA / R129			
45	06/22/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
44	06/14/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
43	02/14/2006	MAIL FINAL REJECTION (PTOL - 326)			
42	02/06/2006	FINAL REJECTION			
41	11/22/2005	DATE FORWARDED TO EXAMINER			
40	11/07/2005	RESPONSE AFTER NON-FINAL ACTION		110	35

39	10/07/2005	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
38.7	07/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	07/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	07/20/2005	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
36	07/26/2005	DATE FORWARDED TO EXAMINER			
35.1	07/20/2005	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
35	07/20/2005	RESPONSE AFTER NON-FINAL ACTION		33	32
34	07/20/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
32	03/17/2005	MAIL NON-FINAL REJECTION			
31	03/07/2005	NON-FINAL REJECTION			
30	01/05/2005	DATE FORWARDED TO EXAMINER			
29	12/17/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
28	12/17/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	12/17/2004	WORKFLOW INCOMING AMENDMENT IFW			
26	09/27/2004	MAIL RESTRICTION REQUIREMENT	531		-1
25	09/24/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
24	07/13/2004	REFERENCE CAPTURE ON IDS			
23.7	07/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	07/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	06/28/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	04/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
17	07/10/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	07/10/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15.7	11/18/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	11/18/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	02/12/2003	CORRESPONDENCE ADDRESS CHANGE			
13	06/12/2002	CASE DOCKETED TO EXAMINER IN GAU			

12	06/04/2002	APPLICATION DISPATCHED FROM OIPE			
11	05/31/2002	APPLICATION IS NOW COMPLETE			
8	05/15/2002	ADDITIONAL APPLICATION FILING FEES			
7	05/15/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	03/15/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	03/14/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
4	03/01/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	02/15/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
2	02/15/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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BIOGEN IDEC / FINNEGAN HENDERSON, LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 05/20/2010

Applicant	: Browning Jeffrey	: DECISION ON REQUEST FOR
Patent Number	: 7691804	: RECALCULATION of PATENT
Issue Date	: 04/06/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/077,137	: OF WYETH
Filed	: 02/15/2002	:
		:

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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

JUN 5 2002

#5

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

In re Application of	:
Robert D'Amato et al	:
Serial No.: 10/077,142	: PETITION TO MAKE SPECIAL
Filed: February 15, 2002	:
Attorney Docket No.: 05213-3000	:

This is in response to applicants' petition filed February 15, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefor the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, 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 : 10/20/04

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 6680336

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

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

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

Lamonte Newsome

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

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

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

Comments:

(1) In column 24, line 54 "in vacuo is not present.

(2) No corrections are needed in (a) column 38 line 55 and (b) column 44 line 25

Joseph K. McKane
JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE — 1626 **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/20/04

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 6680336

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Lamonte Newsome

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

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

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

Comments:

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE — 1626 **Art Unit**

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Paper No. None

VINSON & ELKINS, L.L.P.
1001 FANNIN STREET
2300 FIRST CITY TOWER
HOUSTON TX 77002-6760

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MAY 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Austin M. Long III et al.	:	
Application No. 10/077,174	:	DECISION ON PETITION
Filed: February 15, 2002	:	UNDER 37 C.F.R. §1.181
Attorney Docket No.: ALI515/4-3	:	
Title: PROCESS AND SYSTEM FOR	:	
DETERMINING CORRELATION OF	:	
PUBLIC AND PRIVATE MARKETS AND	:	
RISK OF PRIVATE MARKETS	:	

This is a decision on the petition filed February 5, 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 an Appeal Brief within two-months of the filing of a Notice of Appeal, filed on December 27, 2005. No extensions of time pursuant to 37 C.F.R. §1.136(a) were received. Accordingly, the above-identified application became abandoned on February 28, 2006. A Notice of Abandonment was mailed on January 4, 2007.

With the present petition, Petitioner has asserted that a Pre-Appeal Brief Request for a Panel Review was submitted concurrently with the Notice of Appeal, and that a decision on this request has not been received.

On July 12, 2005, a notice was posted concerning the establishment of a Pre-Appeal Brief Conference Pilot Program (1296 OG 67). The notice indicated:

> If the request is filed with the notice of appeal, the period of time for filing the appeal brief will be the later of the two-month period set in 37 CFR 41.37(a) or one month from the mail date of the decision on the request.

The electronic file has been reviewed, and it is clear that the relevant request was filed concurrently with the Notice of Appeal. However, it does not appear that the Office has mailed a decision by the pre-appeal brief conference panel.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the notice of abandonment was mailed in error.

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

The Technology Center will be notified of this decision. The Technology Center will then notify James Kramer (the Technology Center Art Unit supervisor of the examiner of record) of this decision, so that a panel of examiners experienced in the field of technology can be designated, to review the applicant's remarks and the examiner's rejections.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[1]. 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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1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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Paper No. 8

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

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MAY 2 1 2004
OFFICE OF PETITIONS

In re Application of :
Cherry et al. :
Application No. 10/077,175 :
Filed: February 15, 2002 :
Attorney Docket No. 6087 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed April 29, 2004, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers (hereinafter "Notice"), mailed May 7, 2002, which set a two (2) month period for reply. No response having been received, the application became abandoned on July 8, 2002. A Notice of Abandonment was mailed on January 12, 2004.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). The reply to the May 7, 2002 Notice is filed with the instant petition. Accordingly, the petition is granted.

This application is being forwarded to the Office of Initial Patent Examination for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No. 12

DANIEL E. OVANEZIAN
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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JUN 20 2003

OFFICE OF PETITIONS

In re Application of	:	
McNeil et al.	:	DECISION ON PETITION
Application No. 10/077,200	:	UNDER 37 CFR 1.137(f)
Filed: 15 February, 2002	:	
Atty Dkt No 13168-030001 / 3123-400	:	

This is a decision on the Petition under 37 CFR 1.137(f), filed on 27 May, 2003, which is being treated as a petition filed under 37 CFR 1.137(b) to revive the above identified nonprovisional application.

The petition is **GRANTED**.

Petitioners state that the present nonprovisional application is the subject of an application filed in a foreign country on 5 September, 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 1.23(c) for failure to timely notify the United States Patent and Trademark Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(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 in compliance with the requirements of 37 CFR 1.137(f). Accordingly, applicant's failure to notify the Office timely of a foreign filing within 45 days as provided by 35 U.S.C. 122(b)(2)(B)(iii) is accepted as an 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 25 September, 2003, accompanies this decision on petition.

The $1,300.00 petition fee has been received.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Attachment: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HUGHES LAW FIRM, PLLC
PACIFIC MERIDIAN PLAZA, SUITE 302
4164 MERIDIAN STREET
BELLINGHAM WA 98226-5583

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SEP 3 0 2005

OFFICE OF PETITIONS

In re Patent No. 6,899,872 :
Issued: May 31, 2005 :
Application No. 10/077,240 : ON PETITION
Filed: February 15, 2002 :
Attorney Docket Number: P114063 :

This is a decision on the petition, filed August 11, 2005, under 37 CFR 1.183, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the correct assignee's name is Laboratoires Standa, S.A. and that the failure to include the correct assignee name on the PTOL-85(b) was inadvertent. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b), and a copy of the Notice of Recordation of Assignment Document which reflects that Laboratoires Standa, S.A. is the assignee of record. Accordingly, as the

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[1] *See* Official Gazette of June 22, 2004

request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

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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IPTIVIA INCORPORATED
3525 HAMILTON STREET
PHILADELPHIA, PA 19104

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OCT 20 2008

OFFICE OF PETITIONS

In re Patent No. 7,120,120	:	
Issue Date: October 10, 2006	:	
Application No. 10/077,251	:	ON PETITION
Filed: February 15, 2002	:	
Attorney Docket No. 123097.102	:	

This is a decision on the petition filed June 5, 2008, which is being treated as a petition under 37 CFR 3.81(b)[1] to change the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Joseph T. Helmsen
One Mellon Center, 50th Floor
500 Grant Street
Pittsburgh, PA 15219-2505

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

James J. DeCarlo
Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York, NY 10038

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NOV 22 2002

OFFICE OF PETITIONS

In re Application of
James McFaddin et al.
Application No. 10/077,282
Filed: February 14, 2002
Attorney Docket No. 694231/0011 JD/JFD

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

This is in response to the petition filed October 11, 2002 under 37 CFR 1.47(a) and request for a five month extension of time, in response to the Notice to File Missing Parts mailed March 13, 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 application was filed on February 14, 2002 as a continuation of parent Application No. 09/859,562, without an executed oath or declaration. Accordingly, on March 13, 2002, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and surcharge for its late filing. In reply, the instant petition, petition fee and extension request were filed. Additionally, a declaration naming James McFaddin, Justin Madison and Michael D. Bigby as joint inventors was provided. The declaration was executed by joint inventors Madison and Bigby on behalf of themselves and on behalf of joint inventor James McFaddin.

Petitioners provide, *inter alia*, copies of E-mail correspondences between petitioners and joint inventor McFaddin wherein joint inventor McFaddin explicitly refuses to sign the declaration in Application No. 09/859,562.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1). In regards to item (1), petitioners have not submitted sufficient evidence to prove that a copy of the application in serial no. 10/077,282 was sent or given to the non-signing inventor. While McFaddin acknowledges receipt of the application papers in Application No. 09/859,562, the refusal to sign the declaration in that application is not sufficient to say that he refuses to sign the declaration in application no. 10/077,282.

If however, status under 37 CFR 1.47 had been accorded in application no. 09/859,562 and McFaddin did not later join in the filing of the application by executing an oath or declaration for that application, and another application (a child application) such as this application, 10/077,282 is later filed claiming the benefit of the filing date of the parent application and using the declaration of the prior application, status under 37 CFR 1.47 would continue to exist in the child application. That is not the case. Petitioner's assertion in the Declaration of James J. DeCarlo in support of the Petition under 37 CFR 1.47 (a), that the present application is a continuation of patent application no. 09/859,562 and comprises the same specification, drawings and claims does not take the place of a showing that a copy of the application papers in 10/077,282 (specification, including claims, drawings, if any, as well as the declaration) was ever sent or given to McFaddin. 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 in 10/077,282 after being sent or given a copy of the application papers. If there is a written refusal, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

JAMES J. DECARLO
STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK, NY 10038

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FEB 10 2003

OFFICE OF PETITIONS

In re Application of
James McFaddin et al.
Application No. 10,077,282
Filed: February 14, 2002
Attorney Docket No. 694231/0011 JD/JFD

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the request for reconsideration filed January 22, 2003.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor James E. McFaddin has refused to join in the filing of the above-identified application. Specifically, the declaration of James J. DeCarlo, Attorney of Record, indicates that the application papers for the above identified patent application were mailed to Mr. McFaddin at the office of his attorney, Arthur I. Navarro, Esq. and that while the application papers were delivered to Mr. Navarro, neither Mr. McFaddin nor Mr. Navarro have responded or provided Mr. DeCarlo with an executed copy of the oath/declaration.

The declaration has been properly executed by joint inventors Michael D. Bigby and Justin P. Madison.

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

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

The application is being forwarded to the Office of Initial Patent Examination to be processed in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. 9

JAMES E. MCFADDIN
C/O ARTHUR I. NAVARRO, ESQ.
GODWIN & GRUBER P.C.
RENAISSANCE TOWER
DALLAS, TX 75270

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OFFICE OF PETITIONS

In re Application of
James McFaddin et al.
Application No. 10/077,282
Filed: February 14, 2002
For: METHOD AND SYSTEM FOR DELIVERING A COMPOSITE INFORMATION STREAM OVER A COMPUTER NETWORK

Dear Mr. McFaddin:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (703) 305-4497. 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).

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
JAMES J. DECARLO
STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK, NY 10038

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OFFICE OF PETITIONS

OPTV/MOFO
C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

In re Application of
HARRINGTON
Application No. 10/077,284
Filed: 10/077,284
Attorney Docket No. 10015.02

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 29, 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. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NIXON PEABODY LLP**
401 9TH STREET NE. SUITE 900
WASHINGTON, DC 20004

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C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of
HARRINGTON, Jeffrey M.
Application No. 10/077,284
Filed: February 14, 2002
Attorney Docket No. **10015.02**

DECISION ON PETITION TO WITHDRAW FROM RECORD

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

The request is **NOT APPROVED**.

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 there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on January 23, 2007.

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

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Paper 7

Law Office of Richard B. Klar
Suite 2301
875 Avenue of the Americas
New York, NY 10001

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MAR 2 6 2004

OFFICE OF PETITIONS

In re Application of
Karin Hart
Application No.10/077,306
Filed: February 15, 2002
Attorney Docket No. 83 RK 003 CIP
Title of Invention: BUTTOCKS SUPPORT DEVICE

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed March 11, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to File Corrected Application Papers which was mailed on March 11, 2002. The Notice to File Corrected Application Papers set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on May 12, 2002. A Notice of Abandonment was mailed on January 26, 2004.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Office acknowledges receipt of the substitute drawings.

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

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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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Richard B. Klar
Law Offices of Richard B. Klar
28 East Old Country Road
Hicksville, NY 11801

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MAY 16 2006

OFFICE OF PETITIONS

In re Application of Hart :
Application No. 10/077,306 : Decision on Petition
Filing Date: February 15, 2002 :
Attorney Docket No. 83RK003CIP :

This is a decision on the petition filed March 31, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **granted.**

A non-final Office action was mailed on August 19, 2004.

A reply was not received to the non-final Office action.

A Notice of Abandonment was mailed on March 21, 2005.

The instant petition alleges the Office action was never received.

The showing of record is sufficient to establish non-receipt of the non-final Office action.

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

Technology Center Art Unit 3765 will be informed of the instant decision and the examiner will mail a new copy of the non-final Office action and the time period to reply to the new Office action will begin on the mail date of the new Office action.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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

MAIL

APR 1 0 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Norrell et al. :
Application No. 10/077,308 :
Filed: February 15, 2002 :
For: SYSTEM AND METHOD FOR FAULT :
ISOLATION FOR DSL LOOP EXTENDERS :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on March 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 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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Paper No. 5

LAW OFFICE OF DONALD D. MONDUL
6631 LOVINGTON DRIVE
DALLAS, TX 75252

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AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of
Hans G. Schantz et al.
Application No. 10/077,340
Filed: June 1, 2002
Attorney Docket No. DDM01-03

DECISION GRANTING PETITION

This is a decision on the petition filed under 37 CFR 1.182, on June 1, 2002 (certificate of mailing date), requesting that the above-identified application be accorded a filing date of June 1, 2002, with Figures 5F, 5G and 5H as part of the original disclosure.

On February 15, 2002, applicant filed the above-identified application. However, on April 18, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Items," stating that a filing date had been assigned in the application; however, Figure 5H described in the specification appeared to be omitted from the application.

In response, on June 1, 2002, applicant filed the present petition to accord a filing date of June 1, 2002, with Figure 5H[1] as part of the original disclosure as well as a copy of a new declaration. The petition states that applicant hereby petitions under 37 CFR 1.182 to accept the date of submission of the missing drawing Figure as the application filing date.

The petition is **GRANTED**.

The application file will be forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of June 1, 2002, using the nineteen (19) sheets of drawings filed with the original application papers on February 15, 2002, and the two (2) sheets of drawing containing relabeled Figures 5F, 5G and 5H on June 1, 2002, and an indication in the Office records that twenty (20) sheets of drawings were present on filing.

[1]Figure 5F from the original filing has been relabeled as 5G, Figure 5G from the original filing has been relabeled as 5H and the omitted item has been included and labeled as 5F.

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

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

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

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TRASK BRITT
P O BOX 2550
SALT LAKE CITY, UT 84110

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MAY 2 2 2006

OFFICE OF PETITIONS

In re Application of	:
Peter J. Spransy et al	: DECISION ON PETITION
Application No. 10/077,359	: UNDER 37 CFR 1.137(b)
Filed: February 15, 2002	:
Attorney Docket No. 4764US	:

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

The petition is **granted**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 1, 2005 as required by the Notice of Allowance and Fee(s) Due, mailed December 1, 2004. Additionally, corrected formal drawings were required by a Notice mailed August 3, 2005. However, at the time of mailing of this Notice, the application was abandoned. Thereafter, a Notice of Abandonment was mailed on September 22, 2005.

The petition satisfies the requirements for a grantable petition in that the reply in the form of payment of the $700 issue fee and $300 publication fee; the petition fee of $750; and the required statement of unintentional delay have been submitted. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

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

This matter is being referred to Publishing Division via Technology Center AU 3635 for appropriate action on the amendment under 37 CFR 1.312 and for review of the drawings received with the petition.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVID W. LYNCH
CHAMBLISS, BAHNER & STOPHEL
1000 TALLAN SQUARE-H
TWO UNION SQUARE
CHATTANOOGA TN 37402

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OFFICE OF PETITIONS

In re Application of	:	
Jen et al.	:	
Application No.: 10/077390	:	DECISION ON
Filing or 371(c) Date: 02/15/2002	:	PETITION
Attorney Docket Number:	:	
SJO920010053US1 (0506)	:	

This is a decision in response to the "Petition Under 37 CFR § 1.181 to Withdraw Holding of Abandonment," filed February 23, 2006. 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.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed September 2, 2005. The Notice required corrected drawings, and set a non-extendable three (3) month period for reply. No reply having been filed, the application became abandoned December 3, 2005. A Notice of Abandonment was mailed February 13, 2006.

The present petition

Applicant files the present petition and asserts that drawings were filed July 3, 2002. Applicant further states that it "informed the Examiner of the error on November 30, 2005 via voicemail..." Petition at p.1.

Applicable Law Rules and MPEP

The applicable statute, 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.

Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

It is well settled that the use of "shall" in a statute is the language of command, and where the directions of a statute are mandatory, strict compliance with the statutory terms is essential. Farrel Corp. v. U.S. Int'l Trade Comm'n, 942 F.2d 1147, 20 USPQ2d 1912 (Fed. Cir. 1991).

This section of the statute is further clarified in Office rule 37 CFR § 1.135, Abandonment for failure to reply within time period, which states

> (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.

This section explains that a failure to reply will result in the abandonment of the application.

Applicant is reminded that all business with this Office must be conducted in writing. The applicable rule, 37 CFR 1.2 states:

> All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

Analysis

Applicant asserts that it informed the Examiner of the error on November 30, 2005 via voicemail; however, as stated above, all business should be conducted in writing. Moreover, Applicant did not file a response to the Notice. The MPEP 711.03(c), explaining unavoidable delay, proves instructive. It states:

> Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. 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 (1891). 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. Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay. See Krahn, 15 USPQ2d at 1825. 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 from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985). (Emphasis supplied).

While this section refers to a final Office action, the principal is equally applicable to a Notice of Allowability. The applicable statute and rule do not differentiate between Office actions. The law 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.... (Emphasis supplied).

The rule similarly states:

> If an applicant of a patent application fails to reply within the time period provided under § 1.134[1] and § 1.136, the application will become abandoned unless an Office action indicates otherwise

[1] 37 CFR 1.134 states: "An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed." It does not differentiate as to the Office action.

Here, Applicant failed to file a reply to the Notice.

There is no disagreement as to the sufficiency of the reply, because no reply was filed. Since no timely or proper reply to the Office action was filed, the application is abandoned. As stated in the MPEP: 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.

Alternate Venue

Applicant is urged to file a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable."

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

Derek L. Woods
Attorney
Office of Petitions

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

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In re Application of	:	
Jen et al.	:	
Application No.: 10/077390	:	DECISION ON
Filing or 371(c) Date: 02/15/2002	:	PETITION
Attorney Docket Number:	:	
SJO920010053US1 (0506)	:	

This is a decision in response to the petition to revive the application under 37 CFR 1.137(b), filed October 20, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed September 2, 2005. The Notice required corrected drawings, and set a non-extendable three (3) month period for reply. No reply having been filed, the application became abandoned December 3, 2005. A Notice of Abandonment was mailed February 13, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue fee and corrected drawings; (2) the petition fee; and (3) a proper statement of unintentional delay.

The Power of Attorney filed June 30, 2008 was entered in error and has been removed. There is no evidence that the person signing the Power of Attorney is authorized to act on behalf of the assignee. The Power of Attorney was executed by Douglas Millet as IP Counsel. However, the Statement Under 37 CFR 3.73(b) is executed by David W. Lynch (Mr. Lynch also filed the Change of Correspondence Address, which has been entered and made of record). 37 CFR 3.73, Establishing right of assignee to take action, states in relevant part:

> (a) The inventor is presumed to be the owner of a patent application, and any patent that may issue therefrom, unless there is an assignment. The original applicant is presumed to be the owner of a trademark application or registration, unless there is an assignment.
> (b) (1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is

established by submitting to the Office a signed statement identifying the assignee, accompanied by either
(i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). For trademark matters only, the documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office.
For patent matters only, the submission of the documentary evidence must be accompanied by 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).
(2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:
(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or
(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.
(c) For patent matters only:
(1) Establishment of ownership by the assignee must be submitted prior to, or at the same time as, the paper requesting or taking action is submitted.
(2) If the submission under this section is by an assignee of less than the entire right, title and interest, such assignee must indicate the extent (by percentage) of its ownership interest, or the Office may refuse to accept the submission as an establishment of ownership.

Further to this, the MPEP 324 states:

V. PARTY WHO MUST SIGN
The submission establishing ownership must be signed by a party authorized to act on behalf of the assignee. The submission under 37 CFR 3.73(b) may be signed on behalf of the assignee in the following manner if the assignee is an organization (e.g., corporation, partnership, university, government agency, etc.):
(A) The submission may be signed by a person in the organization having apparent authority to sign on behalf of the organization. 37 CFR 3.73(b)(2)(ii). An officer (chief executive officer, president, vice-president, secretary, or treasurer) is presumed to have authority to sign on behalf of the organization. The signature of the chairman of the board of directors is acceptable, but not the signature of an individual director. Modifications of these basic titles are accept -able, such as vice-president for sales, executive vice-president, assistant treasurer, vice-chairman of the board of directors. In foreign countries, a person who holds the title "Manager " or "Director " is normally an officer and is presumed to have the authority to sign on behalf of the organization. **A person having a title (administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to have**

authority to sign the submission on behalf of the assignee. A power of attorney (37 CFR 1.32(b)(4)) to a patent practitioner to prosecute a patent application executed by the applicant or the assignee of the entire interest does not make that practitioner an official of an assignee or empower the practitioner to sign the submission on behalf of the assignee.

(B) The submission may be signed by any person, if the submission sets forth that the person signing is authorized (or empowered) to act on behalf of the assignee, i.e., to sign the submission on behalf of the assignee. 37 CFR 3.73(b)(2)(i).

(C) The submission may be signed by a person empowered by an organizational resolution (e.g., corporate resolution, partnership resolution) to sign the submission on behalf of the assignee, if a copy of the resolution is, or was previously, submitted in the record.

Where a submission does not comply with (A), (B), or (C) above, evidence of the person's authority to sign will be required.

Before the POA may be entered, evidence of the authority of the person signing the POA, or a POA executed by a person with the authority to act on behalf of the assignee, is required.

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

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7,073,565 :
Issue Date: July 11, 2006 :
Application No. 10/077,391 : ON PETITION
Filed: February 15, 2002 :
Patentee(s): Nikolco S. Nikolovski, et. al. :

This is a decision on the petition under 37 CFR 1.55(c) filed August 23, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d), for the benefit of priority to foreign Australian Application No. PP8525, filed February 5, 1999, by way of a Certificate of Correction. The delay in responding is regretted.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

Intermediate nonprovisional Application No. 09/495,754 was filed within twelve months of Foreign Application No. AU PP8525, which was filed on February 5, 1999, for which priority is claimed. The required petition fee of $1,370 and the Certificate of Correction fee of $100 were received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

This application is being referred to the Certificates of Correction Branch via Technology Center Art Unit 1725, for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any questions concerning this decision should be directed to Andrea Smith at (571) 272-3226. Any questions concerning the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8305.

Andrea Smith
Petitions Examiner
Office of Petitions

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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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July 22, 2004

Amy E. Mandragouras
Lahive & Cockfield
28 State St.
Boston, MA 02109

In re application of:
Jeffrey Browning, et al DECISION ON PETITION
Serial No.: 10/077,406
Filed: February 15, 2002
For: METHODS FOR INHIBITING LYMPHOTOXIN-BETA RECEPTOR SIGNALLING

This is a decision on the petition received by fax on May 27, 2004, to withdraw the holding of abandonment in the above-identified application.

The petition is GRANTED.

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 Correct Application Papers mailed December 9, 2002. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned February 11, 2003. The notice of abandonment was mailed January 21, 2004.

The evidence submitted is sufficient to establish that the application was complete at the time of filing.

The documents received in the Patent and Trademark Office on May 27, 2004 did not have the missing abstract as stated in the response. In order to complete the application Counsel is given two months to submit the missing documents.

These documents can be mailed or faxed to the office. If faxed send them to the attention of Doshie Day fax number 703-305-9822.The office regrets any inconvenience this may have caused the client.

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

Doshie Day

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

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BOSTON MA 02109-2127

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OFFICE OF PETITIONS

In re Application of	:	
Browning et al.	:	DECISION ON REQUEST
Application No. 10/077,406	:	FOR REVIEW OF
Filed: February 15, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. BGNB191CPUSDV	:	

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed on March 4, 2008. Applicants request that the initial determination of patent term adjustment under 35 USC 154(b) be reviewed for accuracy.

The request for correction of the patent term adjustment (PTA) is **GRANTED to the extent indicated.**

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is 493 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 6, 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 five hundred sixty (560) days.

The Office determined a patent term adjustment of five hundred sixty (560) days based on an adjustment for PTO delay of eight hundred (800) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), reduced by thirty-two (32) days, ninety-two

(92) days, twenty-two (22) days, and ninety-four (94) days of applicant delay pursuant to 37 C.F.R. §1.704(b).

Applicants filed the instant "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" on March 4, 2008. Applicants assert that the patent term adjustment should be reduced by 32 days for the filing of a supplemental amendment, filed on October 26, 2007, subsequent to the filing of the Notice of Appeal filed on September 24, 2007.

Such an amendment filed after the filing of a Notice of Appeal is not a supplemental reply or other paper within the meaning of 1.704(c)(8). Accordingly, a reduction in patent term adjustment for the filing of an amendment, filed on October 26, 2007, after the filing of the Notice of Appeal filed on September 24, 2007, is not warranted.

However, it is further noted that a Notice of Abandonment was mailed on January 21, 2004. A petition to withdraw the holding of abandonment was filed on May 27, 2004. The petition to withdraw the holding of abandonment was granted on July 22, 2004.

37 C.F.R. § 1.704(c)(3) states:

(c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(4) Failure to file a petition to withdraw the holding of abandonment or to revive an application within two months from the mailing date of a notice of abandonment, 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 two months from the mailing date of a notice of abandonment and ending on the date a petition to withdraw the holding of abandonment or to revive the application was filed;

Therefore, Applicants should have been assessed delay for the period from March 22, 2004 (the day after the date two months from the mailing date of a notice of abandonment) to May 27,

2004 (the date a petition to withdraw the holding of abandonment or to revive the application was filed), or 67 days.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **four hundred ninety-three (493) days** (800 days of PTO delay, reduced by 307 (67+32+92+22+94) 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 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 application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and 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 Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Wednesday

PALM INTRANET

Date: 8/13/2008
Time: 19:12:05

PTA Calculations for Application: 10/077406			
Application Filing Date:	02/15/2002	PTO Delay (PTO):	800
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	240
Post-Issue Petitions:	0	Total PTA (days):	493
PTO Delay Adjustment:	-67		

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71	12/05/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Application of
Richard W. Wensel
Application No. 10/077,452
Filed: February 14, 2002
Attorney Docket No. 3061.6US(96-893.5)

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

This is a decision on the petition, filed May 24, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 19, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2827 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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OFFICE OF PETITIONS

In re Application of
Richard W. Wensel
Application No. 10/077,452
Filed: February 14, 2002
Attorney Docket No. 3061.6US(96-893.5)

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

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This matter is being referred to Technology Center AU 2827 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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IVAN S. KAVRUKOV
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 1036

In re Patent No. 6,866,924 :
Issue Date: March 15, 2005 :
Application No. 10/077,455 : ON PETITION
Filed: February 14, 2002 :
Attorney Docket No. 2271/66769 :

This is a decision on the petition filed August 2, 2006, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kumar Balakrishnan et al :
Application No. 10/077,458 :
Filed: February 15, 2002 :
Attorney Docket No. 10992306-3 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 23, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed March 14, 2003, which set a shortened statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 17, 2003.

The drawings filed on November 24, 2003 have been approved by the draftsperson. A copy of the Notice of Draftsperson's Patent Drawing Review is attached.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future

correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Pursuant to petitioner's authorization, Deposit Account No. 08-2025 was charged of $1,330.00 for the petition to revive an unintentionally abandoned application.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

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

Attachment: PTO-948

cc: SCOTT LUND
DICKE BILLIG AND CZAJA, PLLC
100 SOUTH FIFTH ST., SUITE 2250
FIFTH STREET TOWERS
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Kumar Balakrishnan et al	:	
Application No. 10/077,458	:	DECISION GRANTING PETITION
Filed: February 15, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 10992306-3	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 24, 2003 (and resubmitted on April 30, 2004), to revive the above-identified application.[1]

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the "Notice Regarding Drawings" [Notice], mailed June 12, 2003, which set a two month nonextendable period for submitting corrected drawings. No reply having been received, the date of abandonment of this application is August 13, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the proposed reply in the form of corrected drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of June 12, 2003 is accepted as having been unintentionally delayed.

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

Th matter is being referred to Publishing Division.

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

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[1] The Office sincerely apologizes for the delay in replying to the instant petition and inconvenience caused petitioner by this delay.

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

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OFFICE OF PETITIONS

In re Patent No. **6,875,576** :
Issue Date: April 5, 2005 :
Application No. 10/077,461 : NOTICE UNDER
Filed: February 15, 2002 : 37 CFR 1.28(c)
Attorney Docket No. **026579-0163** :

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

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

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

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

There is no indication that the person signing the request was ever given a power of attorney to prosecute the application. If the person signing the request desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this notice is being mailed to the person signing the request, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Inquiries related to this communication should be directed to the undersigned at (571) 272-7253.

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

cc: **JAMES T. JONES**
PFIZER INC.
PATENT DEPARTMENT – MS 9114
GROTON, CT 06340

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AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK, NY 10016

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OFFICE OF PETITIONS

In re Application of
Susan Hinshaw :
Application No. 10/077,511 :
Filed: February 15, 2002 : NOTICE
Patent No.: 6,905,507 :
Issued: June 14, 2005 :
For: TEETHING PACIFIER :

This is a notice regarding your request to change your entity status to large.

In accordance with 37 CFR 1.27(g), said notice is hereby accepted. Office records have been corrected to indicate loss of small entity status in the above-identified application.

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

Derek L. Woods
Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Takashi Shigetomi et al :
Application No. 10/077,552 :
Filed: February 14, 2002 :
Attorney Docket No. 8694.44USD1 :

This is a decision on the petition, filed April 4, 2005 which is being treated as a petition under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 16, 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 December 17, 2004.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application number 11/067,082.

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

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

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VIERRA MAGEN MARCUS AND DENIRO LLP
575 MARKET STREET
SUITE 2500
SAN FRANCISCO, CA 94105--287

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OFFICE OF PETITIONS

In re Application of	:	
Daniel Benyamin, et al.	:	
Application No. 10/077,562	:	DECISION ON REQUEST
Filed: February 15, 2002	:	TO WITHDRAW
Attorney Docket No. 11336/1161(PO1139US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed September 12, 2005.

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

The request was signed by Burt Magen on behalf of himself and all the other attorneys/agents associated with Customer No. 28554. However, a review of the file record indicates that the assignee of the patent application revoked all previous powers of attorney on February 23, 2006. Accordingly, the request to withdraw under 37 CFR §1.36(b) is moot.

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

There is no outstanding Office action that requires a reply from the applicant.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Benyamin et al.	:	
Application No. 10/077,562	:	LETTER REGARDING
Filed: February 15, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 11336-1161	:	
(P01139US)	:	

This is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT", filed May 26, 2009. Applicant requests that the determination of patent term adjustment under 35 U.S.C. § 154(b) be reviewed for accuracy. This petition is properly treated under 37 CFR 1.705(b).

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is one thousand eight hundred sixty two **(1862)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 30, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is (1895) days.

Applicants question whether the patent term adjustment pursuant to 35 USC 154(b) of 1895 days indicated on the Determination of Patent Term Adjustment may extend the patent term by too many days.

A review of the application history confirms an error.

A period of reduction of 33 days should have been entered based on 37 CFR 1.704(c)(8). 37 CFR §1.704(c)(8) provides that a period of reduction is entered for:

> 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, after the filing of a response on November 19, 2008, applicants filed a supplemental response on December 22, 2008, in the form of an IDS. The record supports a conclusion that the IDS was not expressly requested by the examiner. Accordingly, the PTA should have been reduced by 33 days, the number of days beginning on the day after the date the initial reply was filed, November 20, 2008, and ending on the date that the supplemental reply or other such paper was filed, December 22, 2008.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is one thousand eight hundred sixty two **(1862)** days.

As this letter was submitted as an advisement to the Office of an error against 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 application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include

any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and 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 Petitions Attorney Charlema Grant at (571) 272-3215.

Kery A Fries

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

Enclosure: Copy of REVISED PALM Screen

PALM INTRANET

Day : Sunday
Date: 8/2/2009
Time: 12:15:17

PTA Calculations for Application: 10/077562			
Application Filing Date:	02/15/2002	PTO Delay (PTO):	1924
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	29
Post-Issue Petitions:	0	Total PTA (days):	1862
PTO Delay Adjustment:	-33		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
95	08/02/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		33	
79	04/30/2009	MAIL NOTICE OF ALLOWANCE			
78	04/29/2009	DOCUMENT VERIFICATION			
77	04/29/2009	ISSUE REVISION COMPLETED			
76	04/29/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
75	04/27/2009	NOTICE OF ALLOWABILITY			
74	04/01/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
72	04/01/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
71	04/01/2009	REFERENCE CAPTURE ON IDS			
70	04/15/2009	DATE FORWARDED TO EXAMINER			
69	04/01/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
68	04/15/2009	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
67	04/03/2009	FINISHED INITIAL DATA CAPTURE			
66	04/01/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
65	04/01/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
64	03/24/2009	WORKFLOW - QUERY REQUEST - FINISH			
63	03/20/2009	TC RETURN TO PUBS			
62	03/20/2009	MAIL EXAMINER'S AMENDMENT			
61	03/20/2009	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
60	03/16/2009	EXAMINER'S AMENDMENT COMMUNICATION			
59	03/16/2009	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			

58	12/22/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
57	02/03/2009	PUBS CASE REMAND TO TC			
56	02/09/2009	WORKFLOW - QUERY REQUEST - BEGIN			
55	01/05/2009	EXPORT TO INITIAL DATA CAPTURE			
54	01/05/2009	MAIL EXAMINER'S AMENDMENT			
53	01/05/2009	MAIL NOTICE OF ALLOWANCE			
52	01/02/2009	ISSUE REVISION COMPLETED			
51	01/02/2009	DOCUMENT VERIFICATION			
50	01/02/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
49	12/22/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	12/22/2008	EXAMINER'S AMENDMENT COMMUNICATION			
47	12/22/2008	NOTICE OF ALLOWABILITY			
42	12/01/2008	DATE FORWARDED TO EXAMINER			
41	11/19/2008	RESPONSE AFTER NON-FINAL ACTION		29	39
40	11/19/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	07/21/2008	MAIL NON-FINAL REJECTION	1924		-1
38	07/18/2008	NON-FINAL REJECTION			
37	07/17/2008	CORRESPONDENCE ADDRESS CHANGE			
36	06/10/2008	TRANSFER INQUIRY TO GAU			
35	03/10/2008	TRANSFER INQUIRY TO GAU			
34	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
33	10/16/2007	FLAGGED FOR 5/25			
32	12/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
31	12/01/2006	CASE DOCKETED TO EXAMINER IN GAU			
30	07/22/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	05/17/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	02/14/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	11/07/2006	MAIL-PETITION DECISION - DISMISSED			
26	11/06/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
25	10/27/2006	CASE DOCKETED TO EXAMINER IN GAU			
24	10/05/2006	CASE DOCKETED TO EXAMINER IN GAU			

23	07/22/2005	REFERENCE CAPTURE ON IDS			
22.7	07/22/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	07/22/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	09/12/2005	PETITION ENTERED			
20	05/17/2006	CASE DOCKETED TO EXAMINER IN GAU			
19	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	03/03/2006	CORRESPONDENCE ADDRESS CHANGE			
17	07/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
16	06/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	10/18/2004	CASE DOCKETED TO EXAMINER IN GAU			
14	06/25/2004	MISCELLANEOUS INCOMING LETTER			
13	05/17/2004	REFERENCE CAPTURE ON IDS			
12.7	05/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	05/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	03/26/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	03/26/2004	REFERENCE CAPTURE ON IDS			
9	02/15/2002	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
8.7	02/14/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	02/14/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	08/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
6	03/18/2002	APPLICATION DISPATCHED FROM OIPE			
5	03/14/2002	APPLICATION IS NOW COMPLETE			
2	03/01/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/15/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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In re Application of	:	
Daniel Benyamin, et al.	:	DECISION ON PETITION
Application No. 10/077,562	:	TO WITHDRAW
Filed: February 15, 2002	:	FROM RECORD
Attorney Docket No. P01139US	:	

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 15, 2009.

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

A review of the file record indicates that the power of attorney to practitioners associated with Customer No. 81166, has been revoked by the assignee of the patent application on July 2, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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

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FEB 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Brian Brockway et al	:	
Application No. 10/077,566	:	ON PETITION
Filed: February 15, 2002	:	
Attorney Docket No. 1155.1101101	:	

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 for failure to reply in a timely manner to the non-final Office action mailed February 28, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 29, 2005.

The instant petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentionally delay have been received. Accordingly, the reply to the non-final Office action of February 28, 2005 is accepted as having been unintentionally delayed.

This matter is being referred to Technology Center AU 3736.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

Wan Laymon

Wan Laymon
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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LEYDIG VOIT & MAYER
TWO PRUDENTIAL PLAZA
SUITE 4900
180 NORTH STETSON
CHICAGO, IL 60601-6780

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JAN 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Nicholas P. Wilt et al	:	
Application No. 10/077,568	:	ON PETITION
Filed: February 15, 2002	:	
Attorney Docket No. 215514	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 2005, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 2, 2004, which set a shortened statutory period for reply of three (3) months. Extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 3, 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 2671.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 11

GRAY CARY WARE & FREIDENRICH LLP
153 TOWNSEND, SUITE 800
SAN FRANCISCO, CA 94107

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FEB 2 1 2003

OFFICE OF PETITIONS

In re Application of	:	
Wenyuan Shi et al	:	
Application No. 10/077,624	:	DECISION GRANTING PETITION
Filed: February 14, 2002	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. 2101363-991201	:	

This is a decision on the petition, filed by facsimile transmission on February 4, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Office computer database records indicate that the instant nonprovisional application is the subject of an application filed in a foreign country on July 17, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

A petition under 37 CFR 1.137(f) must be accompanied by:

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

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

(3) a statement that the entire delay in filing the

required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of May 29, 2003 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 1645 for examination in due course.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

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OFFICE OF PETITIONS

MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
3000 El CAMINO REAL, SUITE 700
PALO ALTO, CA 94306

In re Application of	:	
SHI, Wenyuan et al.	:	
Application No. 10/077,624	:	DECISION ON PETITION
Filed: February 14, 2002	:	TO WITHDRAW
Attorney Docket No. 061818-5512 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 February 2, 2007.

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

A review of the file record indicates that the power of attorney to Jeffry S. Mann of MORGAN LEWIS & BOCKIUS LLP has been revoked by the assignee of the patent application on February 28, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **PERKINS COIE LLP**
POST OFFICE BOX 1208
SEATTLE, WA 98111-1208

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Paper No.

Leonard W. Pojunas
SchlumbergersSema, Inc.
30000 Mill Creek Ave., Suite 100
Alpharetta, GA 30022

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MAY 11 2004
OFFICE OF PETITIONS

In re Application of :
Yann Limelette, et al. :
Application No. 10/077,669 : ON PETITION
Filed: February 15, 2002 :
Attorney Docket No. 76.0715 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 19, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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

The application file is being forwarded to 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

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Paper No. 8

CHRISTIE PARKER & HALE
P.O. BOX 7068
PASADENA, CA 91109-7068

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OFFICE OF PETITIONS

In re Application of
Tokunbo Ayeni et al
Application No. 10/077,671
Filed: February 15, 2002
Attorney Docket No. 47710/GDL/P645

ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed March 18, 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 19, 2002.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

Pursuant to petitioner's authorization, Deposit Account No. 50-1314 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 (571) 272-3220.

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

Wan Laymon

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

cc: HOGAN & HARTSON
500 SOUTH GRAND AVENUE
SUITE 1900
LOS ANGELES, CA 90071

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AUG 24 2005

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

In re Application of	:
Peter J. Dailey	:
Serial No.: 10/077,680	: PETITION DECISION
Filed: February 15, 2002	:
Attorney Docket No.: 1300-0010	:

This is in response to the petition under 37 CFR 1.181, filed April 20, 2005, requesting withdrawal of the Final rejection, mailed February 18, 2005.

BACKGROUND

A review of the file history shows that the examiner mailed a non-Final Office action to applicant on February 25, 2004, setting a three month shortened statutory period for reply to which applicant replied on May 24, 2004. The examiner then mailed a Final Office action to applicant on August 11, 2004, again setting a three month shortened statutory period for reply. The Office action rejected claims 1-26 and 44 under 35 U.S.C. 112, first paragraph, as lacking enablement. Claims 1-3, 6-10, 12-20 and 26 were rejected under 35 U.S.C. 103(a) as unpatentable over Prieto et al in view of Relman et al. Claims 4-5, 11, 21-25 and 44 were also rejected under 35 U.S.C. 103(a) as unpatentable over Prieto et al in view of Relman et al and further in view of Schmidt et al. The action was made Final.

Applicant replied on January 3, 2005, canceling claims 2, 7, 11 and 44 and amending claims 1, 3, 4, 8, 12 and 13 and addressing the rejections of record. Concurrently RCE papers were filed.

The examiner mailed a new Final Office action to applicant on February 18, 2005, in which claims 1, 3-6, 8-10 and 12-26 were rejected under 35 U.S.C. 112, first paragraph, as lacking written description and as lacking enablement, and under second paragraph, as being indefinite. An objection to the specification was also made. The action was made Final.

Applicant filed this petition on April 20, 2005 protesting the finality of the Office action on the basis that the examiner set forth two new rejections and a new objection to the specification in the Office action which could have been made previously, but were not and finality is premature.

Applicant then filed a response to the Office action and a second set of RCE papers on May 13, 2005. Applicant amended the specification and claim 1 and responded fully to the rejections set forth.

The examiner mailed a non-Final Office action to applicant on June 30, 2005, repeating the rejections under 35 U.S.C. 112, first paragraph, for lack of written description and lack of enablement.

DISSCUSSION

The delay in acting on this petition is regretted.

Applicant argues that the Office action mailed February 18, 2005, should not have been made a Final Office action in view of the examiner setting forth two new grounds of rejection and an objection to the specification not previously set forth. Applicant argues that the filing of RCE papers is to enable continuation of prosecution. Filing of RCE papers requires submission of an amendment (or argument) which should serve to advance the prosecution. Applicant's amendment did just that by canceling some claims and amending others to avoid the prior art as evidenced by the examiner withdrawing the prior art rejection. In addition to making two new rejections the examiner also made a new objection to the specification with regard to incorporation by reference. Since the specification was not amended this is also a new issue which could have previously been raised, but was not. In view of these new issues the action was improperly made Final and is hereby redesignated as a non-Final Office action.

As a consequence of the February 18, 2005 Office action being redesignated as a non-Final Office action the filing of RCE papers on May 13, 2005, as part of the response to the Office action was improper. The response, however, is considered a proper reply to a non-Final Office action. Applicant is entitled to refund of the RCE fees paid.

The petition is **GRANTED.**

The Office action mailed February 18, 2005, is hereby redesignated a non-Final Office action. Applicant is entitled to refund of the RCE fee paid on May 13, 2005, of $790.00 which will be credited to applicant's Deposit Account No. 18-0580, as directed.

Applicant remains under obligation to reply to the Office action mailed June 30, 2005, within the time period set therein or as may be extended under 37 CFR 1.136(a).

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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Paper No.

APR 0 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paul C. Haughey
TOWNSEND AND TOWNSEND AND CREW LLP
Two Embarcadero Center 8th Floor
San Francisco, CA 94111-3834

In re Application of:
Shah, Nilesh
Application No. 10/077,696
Filed: February 13, 2002
For: SILICON-BASED STORAGE VIRTUALIZATION SERVER

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 16, 2005.

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

The request filed March 16, 2005 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: Jordan Becker
BLAKELY SOKOLOFF TAYLOR ZAFMAN LLP
1279 Oakmead Parkway
Sunnyvale, CA 94086

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OFFICE OF PETITIONS

NETWORK APPLIANCE/BLAKELY
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

In re Application of

SHAH, Nilesh et al.
Application No. 10/077,696
Filed: February 13, 2002
Attorney Docket No. **5693P213**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 30, 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 Jordan M. Becker on behalf of all attorneys of record who are associated with customer No. 48102. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed August 20, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **NILESH SHAH**
288 CASITAS BOULEVARD
LOS GATOS, CA 95032

cc: **MR. LELAND WEISNER**
WEISNER & ASSOCIATES
366 CAMBRIDGE AVENUE
PALO ALTO, CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/077,696	02/13/2002	Nilesh Shah	5693P213

CONFIRMATION NO. 1454

OC000000025563265

48102
NETWORK APPLIANCE/BLAKELY
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Date Mailed: 08/27/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/30/2007.

- 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.

Michelle R. Eason

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

FORMER ATTORNEY/AGENT COPY

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WIESNER & ASSOCIATES
366 CAMBRIDGE AVENUE
PALO ALTO, CA 94306

MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Application of :
Nilesh Shah, et al. :
Application No. 10/077,696 :
Filed: February 13, 2002 :
Attorney Docket No. 00121-001600000 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 5, 2008, to revive the above-identified application.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 21, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A two-month (2) extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is January 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

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

This application is being referred to Technology Center AU 2157 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

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Paper No. 12

MICHAEL G. PETIT
P.O. BOX 91929
SANTA BARBARA, CA 93190-1929

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MAR 0 2 2004

OFFICE OF PETITIONS

In re Application of
Happe, Thomas
Application No. 10/077,699
Filed: February 15, 2002
Attorney Docket No. 01MEL1

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 17, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed June 12, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 13, 2003. A Notice of Abandonment was mailed on January 28, 2004.

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

The file is now being forwarded to Technology Center 1600 for further examination on the merits.

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

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

SPE: B. Ashleg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/6/07

TO SPE OF : ART UNIT 3724

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/077,718 Patent No.: 7121008

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

B. Ash

BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER

3724

SPE **Art Unit**

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DW 04-03

Paper No. 7

PAUL H. GALLAGHER
2439 JACKSON AVE
EVANSTON IL 60201

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APR 2 2 2003

OFFICE OF PETITIONS

In re Application of	:	
Aleks D. Nikolich	:	
Application No. 10/077,732	:	DECISION DISMISSING
Filed: 19 February, 2002	:	PETITION
Attorney Docket No. Case 1	:	

This is a decision in reference to the "Request for Reconsideration" filed by facsimile on 14 March, 2003, which is being considered as a request, filed in Application No. 10/077,732, for the Office to reconsider the decision mailed in Application Nos. 10/077,732 and 10/084,075 on 12 February, 2003.

The petition is **dismissed**.

Petitioner states, in pertinent part:

> As a brief summary background, the present occasion was caused by the anthrax episode in the Patent Office in October, 2001.
>
> . . .
>
> Quite a number of points were covered in the Decision mentioned but there was one main point that was not covered and it is believed that that one main point is determinative of the overall conclusion, and it would better to present this simple request on one point than to cover all the points involved; which are many, at this time, because it is believed the extensive request could be avoided be re-considering the one main point referred to here.
>
> In a telephone conversation between the undersigned and the Patent Office on December 14, 2001, the undersigned was advised not to file a new substitute application. This point was referred to in

> the Request to Establish Filing Date (identified hereinabove
>
> This point was not acknowledged in the Decision.
>
> However, if such a substitute application had been filed at that time, the present trouble would not have occurred.

Petitioner's argument has been considered but is not persuasive. At the outset, petitioner is reminded that all business between applicants and the USPTO must be transacted in writing. The action of the USPTO 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.[1] As such, petitioner was not entitled to rely on oral advice as to whether or not to file any application papers.

This having been said, as stated in the decision mailed on 12 February, 2003, the rules of practice (*i.e.*, the "Express Mail" provisions of 37 CFR 1.10) **did** provide a manner in which petitioner could have avoided the predicament which has now occurred. As stated in the earlier decision, had petitioner deposited the application papers in USPS "Express Mail Post Office to Addressee Service" rather than first class mail, petitioner would have been entitled to a filing date as of the date the application papers were deposited in Express Mail regardless of when the papers were received in the USPTO. Instead of using Express Mail service, however, petitioner simply deposited in the application in first-class mail. In relying on first-class mail for delivery of the application papers, petitioner assumed the risk, however slight, that there might be an extensive delay in the delivery of mail to the USPTO, leading to a loss of entitlement to the desired filing date. Petitioner's failure to take advantage of the established procedures does not entitle petitioner to a filing date of petitioner's choosing. As the record clearly indicates that the application papers were received in the USPTO on 19 February, 2002, and were not sent pursuant to the provisions of 37 CFR 1.10, the application is entitled to a filing date of 19 February, 2002.

---

[1] 37 CFR 1.2

As stated in the prior decision and in the present petition, the earlier of petitioner's application was received on 19 February, 2002. If petitioner desires not to prosecute the later filed application, No. 10/084,075, petitioner may wish to consider filing a letter of express abandonment under 37 CFR 1.138 in Application No. 10/084,075.

The petition is dismissed.

The application is being forwarded to Technology Center 3600 for further processing with a filing date of 19 February, 2002.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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DW 01-03

PAUL H. GALLAGHER
2439 JACKSON AVE
EVANSTON IL 60201

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FEB 12 2003

OFFICE OF PETITIONS

In re Application of :
Aleks D. Nikolich :
Application No. 10/077,732 :
Filed: 19 February, 2002 :
Attorney Docket No. Case 1 :

DECISION DISMISSING REQUEST

In re Application of :
Aleks D. Nikolich :
Application No. 10/084,075 :
Filed: 27 February, 2002 :
Attorney Docket No. 1 :

This is a decision on the "Letter: Request to Establish Filing Date" filed on 18 June, 2002, which is treated as (a) a request to accord Application No. 10/077,732 a filing date of 23 February, 2001, and (b) a request that the $370 basic filing fee submitted with the application assigned application No. 10/084,075 be refunded. This is also a decision in response to the communication filed by facsimile on 19 January, 2003, requesting merger of the application files.

Applicant states that the application was sent to the USPTO with a return receipt postcard, presumably by USPS first class mail, "within a day or two" after 7 October, 2001. The application papers included a check for $370.00. After failing to receive confirmation from the USPTO that the application had been received, and being told by USPTO employees that the receipt of mail in the USPTO had been delayed because of the USPS mail decontamination procedures, applicant deposited a new application, accompanied by a return receipt postcard, with the USPS on 29 January, 2002. This application also included a check for $370.00. The return receipt postcard from the "first" application was ultimately returned bearing an "Office-date" of 02/27/02, while the postcard from the "second" application was returned with an "Office-date" of 02/19/02. Additionally, the check sent with the first application was deposited on 6 March, 2002, while the check sent with the second application was

deposited on 26 February, 2002.

Applicants request that the application be given the filing date of the prior provisional application, 23 February, 2001, and that the second filing fee be refunded.

Request for Earlier Filing Date

With regard to petitioner's request that "the application" be given the filing date of the prior provisional application, 23 February, 2001. It is noted, at the outset, that application papers are entitled to a filing date of the date the papers are received in the Office.[1]

Further, the evidence and arguments submitted by petitioner have been considered; however, they are not convincing that the first application was, in fact, received in the Office on 23 February, 2001, 7 October, 2001 (the alleged date of deposit), or anytime prior to 19 February, 2002.

35 U.S.C. 21(a) provides that:

> The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.

The Director may, but is not required to, accept the mailing date as the filing date. The Director has determined that only the "Express Mail" procedure can be used for this purpose because the use of "Express Mail" provides very specific identifying

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[1] 37 CFR 1.6. Petitioner asserts that 37 CFR 1.53(c)(3) entitles applicants to the filing date of an earlier-filed provisional application. For a nonprovisional application to receive the filing date of a prior-filed provisional application under 37 CFR 1.53(c)(3), however, petitioner would have had to file a timely petition to convert the provisional application to a nonprovisional application rather than an application under 37 CFR 1.53(b). A review of the record reveals that no petition to convert the prior provisional application to a nonprovisional application was ever filed. Any such petition would have had to have been filed prior to 23 February, 2002, twelve months after the date the provisional application was filed, in order to be timely. 37 CFR 1.53(c)(3)(ii). It is noted, however, that a nonprovisional application may claim the benefit of the filing date of a prior-filed provisional application if the requirements of 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) are satisfied. See MPEP 201.11. Note, in particular, the time period requirement for making the benefit claim.

information in advance which establishes both the date of mailing and the particular papers being filed.

Because the filing date of an application is much more critical than the filing date of papers accepted under 37 CFR 1.8, the USPTO promulgated a separate rule, 37 CFR 1.10, which sets forth a specific procedure which must be followed in order to establish the filing date as the date of deposit with the United States Postal Service (USPS) instead of the date of receipt in the Office.

The procedure in 37 CFR 1.10 requires the use of the "Express Mail Post Office to Addressee"service of the USPS. Correspondence sent by the "Express Mail Post Office to Addressee" service is considered filed in the Office on the "date-in" entered by the USPS. If the USPS deposit date cannot be determined, the correspondence will be accorded the date of receipt in the Office as the filing date. If the procedure is not followed, applicants bear the risk of any delay in the delivery of the application papers to the Office.

In the instant petition, there is no allegation that the application papers deposited on 7 October, 2001, with the USPS as first class mail to the Office, were deposited in compliance with the "Express Mail" procedures set forth in 37 CFR 1.10. Petitioner had the option of depositing the application papers in "Express Mail" service on 7 October, 2001, in order to obtain the benefits of 37 CFR 1.10. Had petitioner followed the procedure set forth in 37 CFR 1.10, the application could have been accorded a filing date as of the date of deposit in "Express Mail." Thus, petitioner could have avoided the instant predicament merely by following the procedures established by the Director. Instead, petitioner chose to deposit the application papers in first class mail and, as such, assumed the risk of any delay in the delivery to the Office. Petitioner's failure to take advantage of the established procedures is not a justification for accepting a date based upon the 7 October, 2001 mailing of the instant application papers by first class mail as the filing date of the above-identified application. Therefore, the application is only entitled to the 19 February, 2002 receipt date as the filing date of the application.

The best evidence of when particular application papers were actually received by the USPTO is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. In the absence of a postcard receipt indicating the

receipt in the USPTO of the application papers on an earlier date, the USPTO must rely on the Official record, which indicates that the instant application papers were not received in the USPTO until 19 February, 2002.

In view of the above, the petition is dismissed. No petition fee is required.

Decision on Request for Refund

It is noted that there was no indication in the application papers filed on 19 February, 2002, and assigned application No. 10/077,732, that the application was a duplicate of a previously submitted application.

The fact that applicant has filed duplicate or substantially duplicate applications does not entitle applicant to a refund of the filing fee. The application papers filed on 27 February, 2002, as application No. 10/084,075, are entitled to a filing date of 27 February, 2002, and the filing fee paid in application No. 10/084,075 is the fee required by law. Similarly, the application papers filed on 19 February, 2002, as application No. 10/077,732, are entitled to a filing date of 19 February, 2002, and the filing fee paid in application No. 10/077,732 is the fee required by law.

37 CFR 1.26(a) reads:

> (a) The Commissioner may refund any fee paid by mistake or in excess of that required. **A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent or trademark filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee.** The Office will not refund amounts of twenty-five dollars or less unless a refund is specifically requested, and will not notify the payor of such amounts. If a party paying a fee or requesting a refund does not provide the banking information necessary for making refunds by electronic funds transfer (31 U.S.C. 3332 and 31 CFR part 208), or instruct the Office that refunds are to be credited to a deposit account, the Commissioner may require such information, or use the banking information on the payment instrument to make a refund. Any refund of a fee paid by credit card will be by a credit to the credit card account

to which the fee was charged. (Emphasis added).

Section 607.02 of the Manual of Patent Examining Procedure, Eighth Edition (August 2001) reads, in part, as follows:

> Under 35 U.S.C. 42(d) and 37 CFR 1.26, the Office may refund: (1) a fee paid by mistake (e.g., fee paid when no fee is required); or (2) any fee paid in excess of the amount of fee that is required. See *Ex parte Grady*, 59 USPQ 276, 277 (Comm'r Pat. 1943) (the statutory authorization for the refund of fees under the "by mistake" clause is applicable only to a mistake relating to the fee payment). **When an applicant or patentee takes an action "by mistake" (e.g., files an application or maintains a patent in force "by mistake"), the submission of fees required to take that action (e.g., a filing fee submitted with such application or a maintenance fee submitted for such patent) is not a "fee paid by mistake" within the meaning of 35 U.S.C. 42(d).** 37 CFR 1.26(a) also provides that a change of purpose after the payment of a fee, as when a party desires to withdraw the filing of a patent application for which the fee was paid, will not entitle the party to a refund of such fee. (Emphasis added and error corrected).

Accordingly, the request is dismissed.

Applicant may wish to consider filing a letter of express abandonment under 37 CFR 1.138 in Application No. 10/084,075 since it has a later filing date than Application No. 10/077,732.

Application No. 10/077,732 is being forwarded to Technology Center Art Unit 3651 for examination in due course.

Application No. 10/084,075 is also being forwarded to Technology Center Art Unit 3651 for examination in due course.

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

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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NOV - 9 2005

#11

Steven E. Kahm, Esq.
NIKOLAI & MERSEREAU, P.A.
900 Second Avenue South
Suite 820 of the International Centre
Minneapolis, MN 55402

In re Application of
Terry Harmston
Application No. 10/077,735
Filed: February 19, 2002
For: TREE LADDER

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on August 16, 2004.

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

☒ Postcard receipt being dated February 24, 2003 verifying a timely filing of a change in correspondence address and new power of attorney.

☐ 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 _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment. The Office action of July 14, 2003 will be redated and remailed to the new correspondence address.

RAR/js: 10/25/05

Randolph A. Reese
Special Programs Examiner
Group 3600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:07072005

DATE : July 7, 2005

TO SPE OF : ART UNIT 1774

SUBJECT : Request for Certificate of Correction on Patent No.: 6,830,829 B2

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

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

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: Rena Dye **Art Unit** 1774

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/27/04

Paper No.: _____

TO SPE OF : ART UNIT 2851

SUBJECT : Request for Certificate of Correction on Patent No.: 6704093

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

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

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

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

Judy Nguyen — SPE

2851 — Art Unit

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JUN 17 2008

OFFICE OF PETITIONS

In re Application of :
James A. Jorasch et al. :
Application No. 10/077,873 : DECISION ON PETITION
Filed: February 15, 2002 :
Attorney Docket No. 02-002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to file a proper reply in a timely manner to the Notice of Non-Compliant Amendment mailed January 11, 2006, which set a shortened statutory period for reply of one (1) month or 30 days whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 12, 2006. A Notice of Abandonment was mailed on January 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540.00, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3714.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

1714

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www.uspto.gov

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
1300 I STREET, NW
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of
Luca Zucchelli, et al.
Application No. 10/077,889
Filed: February 20, 2002
Attorney Docket No. 5788-82-01

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 28, 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 December 23, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1714 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

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

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MAR 03 2008

In re Application of	:	
Hiroteru Tsuchiya	:	
Application No. 10/077,891	:	DECISION ON PETITION
Filed: February 20, 2002	:	
Attorney Docket No. 016907-1374	:	

This is a decision on the petition, filed April 19, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to timely reply to the Notice of Allowability mailed November 17, 2006, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on March 19, 2007 noting applicant's failure to file corrected drawings in response to the Notice of Allowability. The issue fee had been timely filed.

Petitioner asserts that no corrected drawings were required and that the Notice of Allowability was in error. Petitioner states that applicant had a telephone conversation with the examiner of record, Stephen Brinich and that the examiner confirmed the fact that corrected drawings were not required. The examiner faxed (informally) applicant an apparent corrected Notice of Allowability on December 6, 2006 indicating no corrected drawings were needed. This Notice was unsigned and indicated no response time.

Petitioner's arguments have been considered, but are not persuasive. Petitioner asserts that applicant was officially communicated by the Patent Office by faxed Notice of Allowability on December 6, 2006. However, the official written record does not support this. There is no evidence of record that shows a second Notice of Allowability or even an interview summary

was officially mailed to petitioner. The faxed Notice of Allowance does not appear in the written record nor is there any official counting or mailing transaction of this notice. As noted above, it is unsigned and no response time is indicated. This Notice is nothing more than an unofficial correspondence sent from the examiner to applicant and is not part of the official record. Further, there is no official correspondence from applicant prior to this petition that the original Notice of Allowability was in error. Petitioner's response to the Notice of Allowance, to be complete should have included a formal request for a corrected Notice of Allowance.

In summary, to the extent that petitioner's counsel believed that the examiner had agreed that no further action was needed to avoid abandonment of the application, there is no showing in the written record to support that allegation. As MPEP 711.03(c) states, 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 applicants' reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicants of any deficiency in sufficient time to permit the applicant to take corrective action, see In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

As such, the showing of record is that the abandonment resulted from the failure of petitioner to file a timely proper response to the Notice of Allowability rather than an error on the part of the USPTO.

The application is properly abandoned.

The petition is **DISMISSED**.

Petitioner may wish to consider filing 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 hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

In re Application of	:	
Hiroteru Tsuchiya	:	
Application No. 10/077,891	:	DECISION ON PETITION
Filed: February 20, 2002	:	
Attorney Docket No. 016907-1374	:	

This is a decision on the renewed petition, filed April 18, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application or in the alternative a request to revive application under unintentional abandonment.

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

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

This application was held abandoned for failure to timely reply to the Notice of Allowability mailed November 17, 2006, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on March 19, 2007 noting applicant's failure to file corrected drawings in response to the Notice of Allowability. The issue fee had been timely filed.

The petition under 37 CFR 1,181:

Petitioner asserts that no corrected drawings were required and that the Notice of Allowability was in error. Whether or not the Notice of Allowability contained an error petitioner is required to reply to the Office action as the condition of the application may require. See 35 U.S.C. 133 and 37 CFR 1.135. Additionally, such responses must be in writing. See 37 CFR 1.2. That petitioner had a telephone conversation with the examiner confirming that corrected drawings were not required is immaterial to the abandonment of this application.

Petitioner further asserts that the examiner transmitted by facsimile a copy of an unsigned replacement PTOL-37 and argues that there was no reason to expect that such a paper would be signed as the PTOL-37 mailed November 17, 2006 was not signed. Despite petitioner's assertions to the contrary the Office action mailed November 17, 2006 was signed by Primary

Examiner Tommy D. Lee. MPEP 707.09 states that all Office actions and other correspondence should be signed by a Primary Examiner or Other Authorized Examiner. Additionally, MPEP 1005 states that allowance requires the signature of a Primary Examiner. Moreover, MPEP 707.12 states that copies of an examiner's action are mailed by the Technology Center after the original, initialed by the assistant examiner and signed by the authorized signatory examiner, has been placed in the file. Mailing and transmission by facsimile are not the same. As the Office action mailed November 17, 2007 followed all of the policies set forth in the MPEP, petitioner should have recognized that the PTOL-37 sent by facsimile was informal.

Petitioner was officially informed, correctly or incorrectly, that corrected drawings were required as set forth in the November 17, 2006 Notice of Allowability. Absent an official supplemental Notice of Allowability, it was applicant's responsibility to respond, in writing, to the drawing requirement and indicate it appeared to be an erroneous indication and request a supplemental Notice of Allowability. Applicant did not do so and the application is properly abandoned.

The petition under 37 CFR 1.181 is dismissed.

The petition under 37 CFR 1.137(a):

The renewed petition requested that in the alternative the petition be considered as a request to revive the application under unintentional abandonment. This request is treated as a request to revive an abandoned application under unavoidable abandonment (37 CFR 1.137(a)).

The petition under 37 CFR 1.137(a) is granted.

The petition fee for a petition filed under 37 CFR 1.137(a) has been charged to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application is being forwarded to the Office of Data Management for further processing of the application.

David Bucci
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

GREENWALD & BASCH, LLP
349 WEST COMMERCIAL STREET, SUITE 2490
EAST ROCHESTER, NY 14445

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AUG 0 8 2002

OFFICE OF PETITIONS

In re Application of
Thomas H. Foster et al.
Application No. 10/077,893
Filed: February 19, 2002
Attorney Docket No. BTI-13

: DECISION GRANTING
: PETITION

This is a decision on the petition filed June 19, 2002, requesting that the above-identified application be accorded a filing date of February 19, 2002, with Figures 44 and 45 as a part of the original disclosure of the application.

The application was filed on February 19, 2002. However, on June 14, 2002, Initial Patent Examination Division mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a February 19, 2002 filing date, but that figures 44 and 45 described in the specification appeared to have been omitted.[1]

In response, on June 19, 2002, Figures 44 and 45 were filed, accompanied by the present petition. Petitioner argues that Figures 44 and 45 were filed on May 29, 2002 in response to the Notice to File Missing Parts mailed March 18, 2002. . In support, a copy of petitioners' postcard receipt was supplied on June 19, 2002. The postcard receipt shows an Office date stamp of May 29, 2002, and acknowledges receipt, *inter alia*, of fifty-eight (58) sheets of drawings. Petitioners request that the application, including the one (1) sheet of drawings containing Figures 44 and 45 be accorded a filing date of February 19, 2002.

A review of the record reveals that fifty seven (57) sheets of drawings, containing all drawings except those on page 30 of 58, are located among the application papers deposited on May 29, 2002. However, the evidence is convincing that the application papers deposited on May 29, 2002, included one (1) sheet of drawing containing Figures 44 and 45 as described in the specification, which was subsequently misplaced in the Office. Therefore, the application, including the one (1) sheet of drawing containing figures 44 and 45 as described in the specification, is entitled to a filing date of February 19, 2002.

The "Notice" mailed on June 14, 2002, is vacated.

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[1]A Notice to File Missing Parts was mailed March 18, 2002 requiring the filing of the oath or declaration, surcharge and substitute drawings in compliance with 37 CFR 1.84. In response, on May 29, 2002 (with a request for a one month extension), the oath or declaration, surcharge and Formal Drawings were filed, which necessitated the June 14, 2002 mailing of the Notice of Omitted Items.

In view of the above, the petition is granted.

The application will be processed and examined using figures 44 and 45 supplied on June 19, 2002.

The $130.00 petition fee submitted with this petition is unnecessary and will be credited to petitioner's deposit account no. 50-1706.

The application is being returned to Initial Patent Examination Division for reprocessing with a filing date of February 19, 2002 using the application papers filed on February 19, 2002, May 29, 2002 and figures 44 and 45 filed on June 19, 2002.

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

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

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

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6550 Rock Spring Drive
Bethesda, MD 20817

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OFFICE OF PETITIONS

In re Application of :
Passino, et al. 10 :
Application No. ~~09~~/077,905 : DECISION REGARDING PTA
Filed: February 20, 2002 :
Atty. Dkt. No.: 08200.476 :

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154 (EXAMINATION DELAY)," filed June 14, 2004. This request for reconsideration of patent term adjustment will be considered under 37 CFR 1.705(b).

Applicants request that the patent term adjustment be corrected from zero days as indicated on the Determination of Patent Term Adjustment mailed June 1, 2004, to an adjustment of 73 days.

In accordance with 37 CFR 1.705(b), [a]n application for patent term adjustment under this section must be filed no later than the payment of the issue fee but may not be filed earlier than the date of mailing of the notice of allowance. An application for patent term adjustment under this section **must** be accompanied by:

(1) The fee set forth in § 1.18(e); and
(2) A statement of the facts involved, specifying:
(i) The correct patent term adjustment and the basis or bases under § 1.702 for the adjustment;
(ii) The relevant dates as specified in §§ 1.703(a) through (e) for which an adjustment is sought and the adjustment as specified in § 1.703(f) to which the patent is entitled;
(iii) Whether the patent is subject to a terminal disclaimer and any expiration date specified in the terminal disclaimer; and
(iv) (A) Any circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704; or

(B) That there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704.

The instant application for patent term adjustment lacks the required application fee, currently, $200.00.

Accordingly, the instant request for reconsideration of patent term adjustment under 37 CFR 1.705(b) is **DISMISSED**.

This application is being forwarded to Technology Center 2800 for consideration of the Rule 312 amendment submitted herein.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3202.

Karin Ferriter per

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

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BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD, NY 14526

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OFFICE OF PETITIONS

In re Application of
Macdonald et al.
Application No. 10/077,906
Filed: February 19, 2002
Patent No. 6,829,509
Issued: December 7, 2004
Attorney Docket No. BTI-7

Decision on Petition

This is a decision on the petitions filed on January 6, 2005, under 37 CFR 1.181(a)(3) requesting that the Commissioner invoke his supervisory authority to review the actions of Technology Center Art Unit 3762, which mailed a Notice of Allowance requiring payment of a publication fee.

The petition is **dismissed**. However, the publication fee of $300 will be credited back to petitioner's deposit account.

Facts:

A Notice of Allowance was mailed June 29, 2004. The Notice required payment of $300 for the publication fee and $665 for the issue fee.

Petitioner paid the publication fee and issue fee and the patent issued on December 7, 2004.

The application was never published as a patent application publication.

The Office acted correctly in charging the $300 publication fee.

Per MPEP 1126:

> 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 publication fee will be refunded under certain circumstances.

Per MPEP 1126:

> The Office will refund the publication fee (if paid) 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 4 weeks from the issue date of the patent. A request for refund filed before 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

The instant petition cannot be granted because petitioner has not proven the Office has acted erroneously.

The Office acted properly in requiring payment of the publication fee.

The proper avenue to obtain a refund is by submitting a refund request to Pre-Grant Publication Division of the Office of Publications. If the refund request is denied, then a petition under 37 CFR 1.181 requesting review of the denial of the refund would be appropriate.

The publication fee will be refunded.

Submission of the refund request as a petition under 37 CFR 1.181, although incorrect, is certainly not unreasonable. Considering all the facts and circumstances, the Office will refund the $300 publication fee for the instant application. However, requiring these types of refund requests to be processed solely by Pr-Grant Publication Division allows the Office to more quickly and efficiently process the requests. Therefore, requests for refunds of publication fees should be sent to Pre-Grant Publication Division in the future.

The $300 fee will be credited to petitioner's deposit account.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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BASCH & NICKERSON LLP
1777 PENFIELD RD
PENFIELD NY 14526

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OFFICE OF PETITIONS

In re Application	:	
Weiner, et al.	:	
Application No. 10/077,958	:	DECISION ON APPLICATION
Filed: February 19, 2002	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. BTI-22	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 CFR § 1.705)," filed June 17, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred ninety-nine (399) days to four hundred twelve (412) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **four hundred twelve (412) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 4, 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 three hundred ninety-nine (399) days. On June 17, 2004, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is four hundred twelve (412) days.

Applicants assert entitlement to a patent term adjustment of four hundred twelve (412) days on the basis that the PTO improperly assessed Applicants a delay of thirteen (13) days for responding to a Notice to File Missing Parts mailed on March 14, 2002. Applicants assert that on June 5, 2002 they timely filed a response within the three month period pursuant to 37 C.F.R. 1.704(b).

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

The Office initially determined a patent term adjustment of three hundred ninety-nine (399) days based on an adjustment for PTO delay of four hundred twelve (412) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicants' delays of thirteen (13) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(b). The adjustment of thirteen (13) days is at issue.

The adjustment of thirteen (13) days has been found to be incorrect. Applicants have submitted a copy of a postcard receipt for the instant application, itemizing a declaration, substitute drawings, and the proper fees, and bearing a USPTO date stamp of June 5, 2002. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.[2] Accordingly, it is concluded that Applicants filed a complete reply in response to the March 14, 2002 Notice to File Missing Parts on June 5, 2002, and therefore should not have been assessed a delay of thirteen (13) days.

In view thereof, the correct determination of patent term

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[1] Applicants filed the application for patent term adjustment prior to the filing of the issue fee.

[2] MPEP 503.

adjustment at the time of the mailing of the Notice of Allowance is **four hundred twelve (412)** (412 days of PTO delay and 0 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 matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery Arthur
for

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

Enclosure: Copy of Revised PAIR Screen

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DR. MARK FRIEDMAN LTD.
c/o Bill Polkinghorn
Discovery Dispatch
9003 Florin Way
Upper Marlboro, MD 20772

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OFFICE OF PETITIONS

In re Application of
Nitzan Arazi, et al.
Application No. 10/077,969
Filed: February 20, 2002
Attorney Docket No. 2098/10

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 28, 2005 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 Naim Shichrur appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. However, if Mr. Shichrur 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. Shichrur, 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 February 10, 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.

[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 2681 for further processing of the request for continued examination under 37 CFR 1.114 filed July 28, 2005.

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

cc: NAIM SHICHRUR
PEARL COHEN ZEDEK LATZER, LLP
10 ROCKEFELLER PLAZA, SUITE 1001
NEW YORK, NY 10020

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OFFICE OF PETITIONS

DR. MARK FRIEDMAN LTD.
c/o Bill Polkinghorn
Discovery Dispatch
9003 Florin Way
Upper Marlboro MD 20772

In re Application of
Arazi et al.
Application No. 10/078,007
Filed: February 20, 2002
Attorney Docket Number: 2098/12
Title of Invention: Wireless Private Branch Exchange (Wpbx) and Communicating Between Mobile Units and Base Stations

ON PETITION

This is a decision on the petition filed March 29, 2007, 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 fee, as required by the Notice of Allowance and Fee (s) Due which was mailed October 6, 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 January 7, 2007. A Notice of Abandonment was mailed on February 5, 2007.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and change of correspondence address must be submitted.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Zachary W. Hilton
Carstens & Cahoon, LLP
P.O. Box 802334
Dallas, TX 75380

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Michael S. Neustal
NEUSTAL LAW OFFICES, LTD
2534 South University Drive, Suite No. 4
Fargo, ND 58103

In re Application of:
Alain BEBIE
Application No. 10/078,018
Filed: February 26, 2002
For: SECURE TRAVERSAL OF NETWORK COMPONENTS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 14, 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: Alain Bebie
Unite Software GmbH
Germaniastrasse 51
Zurich, CH 8006

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

10/078,020 Choi et al

Paper No.:20070105

DATE : January 5, 2007

TO SPE OF : ART UNIT 1775

SUBJECT : Request for Certificate of Correction on Patent No.: 6,805,974

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

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

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: Jennifer McNeil **Art Unit** 1775

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MALLOY & MALLOY, P.A.
Historic Coral Way
2800 S. W. Third Avenue
Miami, FL 33129

In re Patent No. 6,871,781	:	
Issue Date: March 29, 2005	:	
Application No. 10/078,047	:	ON PETITION
Filed: February 8, 2002	:	
Patentee(s): Carlos Gamero S.	:	

This is a decision on the petition under 37 CFR 1.378(c), filed on January 22, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

Since petitioner has demonstrated to the satisfaction of the Commissioner that the delay in timely paying the maintenance fee was unintentional, the petition under 37 CFR 1.378(c) is hereby **GRANTED**.

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

This patented file is being forwarded to Files Repository.

Telephone inquiries should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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APR - 2 2004

Paper No. 8

In re Application of
Patricia Lewis *et al*
Application No. 10/078,068
Filed: March 30, 2001
Attorney Docket No. MOR3334P0870US

DECISION ON PETITION

This is a decision on the petition filed on March 22, 2004 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the final Office action dated August 21, 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 proper reply to the Office letter in question was in fact filed on November 5, 2003. Petitioners support this allegation by furnishing a copy of the reply consisting of a Request for Continued Examination (RCE) under 37 CFR 1.114 and a preliminary amendment accompanying the RCE. Petitioners have also submitted a copy of filing receipt for the reply which shows that the reply was in fact received in the Office on November 21, 2003, a date within the period set by the Office letter in question for filing a reply. A RCE constitutes a proper reply to the outstanding final Office action. Based upon this evidence, it is clear that this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application will be forwarded to the examiner for action on the RCE filed November 21, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Wood, Phillips, Katz, Clark & Mortimer
Citicorp Center
500 West Madison Street
Suite 3800
Chicago, IL 60661

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KLAUS J. BACH & ASSOCIATES
PATENTS AND TRADEMARKS
4407 TWIN OAKS LANE
MURRYSVILLE PA 15668

In re Application of
Blumich et al.
Filed: February 19, 2002
Application No. **10/078,069**
Attorney Docket No. ME 102
For: APPARATUS FOR INSPECTING FLAT GOODS MADE OF POLYMERIC MATERIALS WITH EMBEDDED TEXTILE REINFORCEMENTS

: DECISION DISMISSING
: REQUEST FOR REFUND

~~In re Application of~~
~~Blumich et al.~~
~~Filed: December 18, 2001~~
~~Application No. **10/026,067**~~
~~Attorney Docket No. ME 102~~
~~For: APPARATUS FOR INSPECTING FLAT GOODS MADE OF POLYMERIC MATERIALS WITH EMBEDDED TEXTILE REINFORCEMENTS~~

This is in response to a letter filed March 8, 2002 in the application No. 10/026,067, requesting that (1) the filing fee of the application No. 10/078,069 be refunded, (2) the surcharge set forth in the "Notice to File Missing Parts of Nonprovisional Application" mailed on February 7, 2002 in application 10/026,067 be waived, and (3) the certified copy and information disclosure statement filed in application No. 10/078,069 be transferred to application No. 10/026,067.

The fact that applicant has filed duplicate or substantially duplicate applications does not entitle applicant to a refund of the filing fee. The papers filed on February 19, 2002, as application No. 10/078,069, are entitled to a filing date of February 19, 2002, and the filing fee paid in application No. 10/078,069 is the fee required by law.

37 CFR 1.26(a) reads:

> (a) The Commissioner may refund any fee paid by mistake or in excess of that required. **A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent or trademark filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee.** The Office will not refund amounts of twenty-Five dollars or less unless a refund is specifically requested, and will not notify the payor of such amounts. If a party paying a fee or requesting a refund does not provide the banking information necessary for making refunds by electronic funds transfer (31 U.S.C. 3332 and 31 CFR part 208), or instruct the Office that refunds are to be credited to a deposit account, the Commissioner may require such information, or use the banking information on the payment instrument to make a refund. Any refund of a fee paid by credit card will be by a credit to the credit card account to which the fee was charged. (Emphasis added.)

Section 607.02 of the Manual of Patent Examining Procedure, Eighth Edition (August 2001) reads, in part, as follows:

> Under 35 U.S.C. 42(d) and 37 CFR 1.26, the Office may refund: (1) a fee paid by mistake (e.g., fee paid when no fee is required); or (2) any fee paid in excess of the amount of fee that is required. See *Ex parte Grady*, 59 USPQ 276, 277 (Comm' r Pat. 1943) (the statutory authorization for the refund of fees under the "by mistake" clause is applicable only to a mistake relating to the fee payment). **When an applicant or patentee takes an action "by mistake" (e.g., files an application or maintains a patent in force "by mistake"), the submission of fees required to take that action (e.g., a filing fee submitted with such application or a maintenance fee submitted for such patent) is not a "fee paid by mistake" within the meaning of 35 U.S.C. 42(d).** 37 CFR 1.26(a) also provides that a change of purpose after the payment of a fee, as when a party desires to withdraw the filing of a patent application for which the fee was paid, will not entitle the party to a refund of such fee. (Emphasis added and error corrected.)

Accordingly, the request for refund is dismissed.

A review of the papers filed December 18, 2001 in application No. 10/026,067, reveals that no authorization to charge the filing fee was present. Furthermore, in the letter filed February 19, 2002, applicant acknowledges that the application papers submitted on December 18, 2001 did not include a fee authorization. Therefore, the $65.00 surcharge set forth in the "Notice to File Missing Parts of Nonprovisional Application" mailed February 7, 2002, cannot be waived.

Applicant has requested that the certified copy and the information disclosure statement (IDS) filed in application No. 10/078,069 be transferred to application No. 10/026,067. Accordingly, the certified copy and information disclosure statement filed February 19, 2002 with the application No. 10/078,069 have been transferred to application No. 10/026,067. No record of these papers remains in application No. 10/078,069.

After mailing this decision, application No. 10/078,069 and application No. 10/026,067 will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries concerning this communication should be directed to Terry J. Dey at (703) 308-1201.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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In re Application of
Blumich et al.
Filed: February 19, 2002
Application No. **10/078,069**
Attorney Docket No. ME 102
For: APPARATUS FOR INSPECTING FLAT GOODS MADE OF POLYMERIC MATERIALS WITH EMBEDDED TEXTILE REINFORCEMENTS

: DECISION DISMISSING
: REQUEST FOR REFUND

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JAN 2 4 2003
Technology Center 2600

In re Application of
Blumich et al.
Filed: December 18, 2001
Application No. **10/026,067**
Attorney Docket No. ME 102
For: APPARATUS FOR INSPECTING FLAT GOODS MADE OF POLYMERIC MATERIALS WITH EMBEDDED TEXTILE REINFORCEMENTS

This is in response to a letter filed March 8, 2002 in the application No. 10/026,067, requesting that (1) the filing fee of the application No. 10/078,069 be refunded, (2) the surcharge set forth in the "Notice to File Missing Parts of Nonprovisional Application" mailed on February 7, 2002 in application 10/026,067 be waived, and (3) the certified copy and information disclosure statement filed in application No. 10/078,069 be transferred to application No. 10/026,067.

The fact that applicant has filed duplicate or substantially duplicate applications does not entitle applicant to a refund of the filing fee. The papers filed on February 19, 2002, as application No. 10/078,069, are entitled to a filing date of February 19, 2002, and the filing fee paid in application No. 10/078,069 is the fee required by law.

37 CFR 1.26(a) reads:

> (a) The Commissioner may refund any fee paid by mistake or in excess of that required. **A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent or trademark filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee.** The Office will not refund amounts of twenty-Five dollars or less unless a refund is specifically requested, and will not notify the payor of such amounts. If a party paying a fee or requesting a refund does not provide the banking information necessary for making refunds by electronic funds transfer (31 U.S.C. 3332 and 31 CFR part 208), or instruct the Office that refunds are to be credited to a deposit account, the Commissioner may require such information, or use the banking information on the payment instrument to make a refund. Any refund of a fee paid by credit card will be by a credit to the credit card account to which the fee was charged. (Emphasis added.)

Section 607.02 of the Manual of Patent Examining Procedure, Eighth Edition (August 2001) reads, in part, as follows:

> Under 35 U.S.C. 42(d) and 37 CFR 1.26, the Office may refund: (1) a fee paid by mistake (e.g., fee paid when no fee is required); or (2) any fee paid in excess of the amount of fee that is required. See *Ex parte Grady*, 59 USPQ 276, 277 (Comm' r Pat. 1943) (the statutory authorization for the refund of fees under the "by mistake" clause is applicable only to a mistake relating to the fee payment). **When an applicant or patentee takes an action "by mistake" (e.g., files an application or maintains a patent in force "by mistake"), the submission of fees required to take that action (e.g., a filing fee submitted with such application or a maintenance fee submitted for such patent) is not a "fee paid by mistake" within the meaning of 35 U.S.C. 42(d).** 37 CFR 1.26(a) also provides that a change of purpose after the payment of a fee, as when a party desires to withdraw the filing of a patent application for which the fee was paid, will not entitle the party to a refund of such fee. (Emphasis added and error corrected.)

Accordingly, the request for refund is dismissed.

A review of the papers filed December 18, 2001 in application No. 10/026,067, reveals that no authorization to charge the filing fee was present. Furthermore, in the letter filed February 19, 2002, applicant acknowledges that the application papers submitted on December 18, 2001 did not include a fee authorization. Therefore, the $65.00 surcharge set forth in the "Notice to File Missing Parts of Nonprovisional Application" mailed February 7, 2002, cannot be waived.

Applicant has requested that the certified copy and the information disclosure statement (IDS) filed in application No. 10/078,069 be transferred to application No. 10/026,067. Accordingly, the certified copy and information disclosure statement filed February 19, 2002 with the application No. 10/078,069 have been transferred to application No. 10/026,067. No record of these papers remains in application No. 10/078,069.

After mailing this decision, application No. 10/078,069 and application No. 10/026,067 will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries concerning this communication should be directed to Terry J. Dey at (703) 308-1201.

Eugenia A. Jones
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
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#4

KLAUS J. BACH & ASSOCIATES
PATENTS AND TRADEMARKS
4407 TWIN OAKS LANE
MURRYSVILLE PA 15668

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SEP 17 2003

OFFICE OF PETITIONS

In re Application of
Blumich et al.
Application No. **10/078,069**
Filed: February 19, 2002
Attorney Docket No. ME 102

: DECISION DISMISSING
: REQUEST FOR REFUND

~~In re Application of
Blumich et al.
Application No. **10/026,067**
Filed: December 18, 2001
Attorney Docket No. ME 102~~

This is in response to the letter filed January 21, 2003 requesting reconsideration of the decision dismissing the request for refund mailed November 4, 2002.

Applicants argue that special circumstances apply since applicant did not wish to file duplicate applications, that this was "forced on applicant under the circumstances." Applicants state that a duplicate application was filed in an effort to claim priority to an earlier filed application. Applicants further state that it "was probably the decision of the Patent Office together with the US Postal Service to divert all the mail directed to cip (sic) code 20231 to Ohio for decontamination."

The arguments submitted by applicants have been considered; however, they are not convincing.

There was no indication in the application papers filed December 18, 2001, and assigned application No. 10/026,067, that the application was a duplicate of a previously submitted application.

The fact that applicants have filed duplicate or substantially duplicate applications does not entitle application to a refund of the filing fee. The papers filed on February 19, 2002, as application No. 10/078,069, are entitled to a filing date of February 19, 2002, and the filing fee paid in application No. 10/078,069, is the fee required by law. Similarly, the application papers filed on December 18, 2001, as application No. 10/026,067, are entitled to a filing date of December 18, 2001, and the filing fee paid in application No. 10/026,067 is the fee required by law.

37 CFR 1.26(a) reads:

> (a) The Commissioner may refund any fee paid by mistake or in excess of that required. **A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent or trademark filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee.** The Office will not refund amounts of twenty-five dollars or less unless a refund is specifically requested, and will not notify the payor of such amounts. If

> a party paying a fee for requesting a refund does not provide the banking information necessary for making refunds by electronic funds transfer (31 U.S.C. 3332 and 31 CFR part 208), or instruct the Office that refunds are to be credited to a deposit account, the Commissioner may require such information, or use the banking information on the payment instrument to make a refund. Any refund of a fee paid by credit card will be by a credit to the credit card account to which the fee was charged. (Emphasis added.)

Section 607.02 of the Manual of Patent Examining Procedure, Eighth Edition (August 2001) reads, in part, as follows:

> Under 35 U.S.C. 42(d) and 37 CFR 1.26, the Office may refund: (1) a fee paid by mistake (e.g., fee paid when no fee is required); or (2) any fee paid in excess of the amount of fee that is required. See Ex parte Grady, 59 USPQ 276, 277 (Comm' r Pat. 1943) (the statutory authorization for the refund of fees under the "by mistake" clause is applicable only to a mistake relating to the fee payment). **When an applicant or patentee takes an action "by mistake" (e.g., files an application or maintains a patent in force "by mistake"), the submission of fees required to take that action (e.g., a filing fee submitted with such application or a maintenance fee submitted for such patent) is not a "fee paid by mistake" within the meaning of 35 U.S.C. 42(d).** 37 CFR 1.26(a) also provides that a change of purpose after the payment of a fee, as when a party desires to withdraw the filing of a patent application for which the fee was paid, will not entitle the party to a refund of such fee. (Emphasis added and error corrected.)

Therefore, the Office is without statutory authority to refund the filing fee paid in application No. 10/078,069.

In view of the above, the request for refund is dismissed.

Applicant may wish to file a letter of Express Abandonment in compliance with 37 CFR 1.138 in application No. 10/078,069.

Telephone inquiries specific to this matter should be directed to Terry J. Dey at (703) 308-1201.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

FEHR LAW FIRM
Suite 300
Goldenwest Corporate Center
5025 Adams Avenue
Ogden UT 84403

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DEC 18 2006

OFFICE OF PETITIONS

In re Application of :
William Bolick :
Application No. 10/078,078 :
Filed: February 15, 2002 :
Attorney Docket Number: PBOLIWC :
Title: TRANSVERSELY MOVING :
CABLE CONTROL :

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

This is a decision on the petition filed August 2, 2006, under 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

On Mach 8, 2005, the applicant filed an Appeal Brief. On May 27, 2005, the Office mailed a Notification of Non-Compliant Appeal Brief (notice), stating that the Appeal Brief was defective. The notice set a one-month period for response. No response was received, and no extensions of time were requested. Accordingly, the above-identified application became abandoned on June 28, 2005. A notice of abandonment was mailed on June 2, 2006.

---

1 A grantable petition pursuant to 37 C.F.R. §1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

With the present petition, Petitioner has submitted the petition fee, another appeal brief, and the proper statement of unintentional delay. No terminal disclaimer is required.

As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the Appeal Brief that was received with the present petition can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

---

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

William Bolick
264 W. State Road. #10
Pleasant Grove, UT 84062

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JUN 17 2008

OFFICE OF PETITIONS

In re Application of	:	
William Bolick	:	
Application No. 10/078,078	:	DECISION ON PETITION
Filed: February 15, 2002	:	
Attorney Docket No. PBOLIWC	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 8, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within the one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1) mailed February 15, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on March 16, 2007. See MPEP 1215.04. A Notice of Abandonment was mailed on October 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 Appeal Brief with fee of $255.00, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay. Accordingly the appeal brief is accepted as being unintentionally delayed.

A withdrawal of power of attorney was filed subsequent to this petition on March 20, 2008 and was granted on April 2, 2008. A courtesy copy of this decision is being mailed to the address noted on the petition. All future correspondence will be mailed to the current address of record.

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

This application is being referred to Technology Center AU 2167 for appropriate action in the normal course of business on the Appeal Brief received January 8, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Thompson E. Fehr
Suite 300
5025 Adams Avenue
Ogden, UT 84403

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Paper No. 8

HOVEY WILLIAMS LLP
SUITE 400
2405 GRAND
KANSAS CITY, MO 64108

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JUN 1 4 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Chen et al.	:
Application No. 10/078,084	:
Filed: February 15, 2002	:
Attorney Docket No. 27675-CNT1	:

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 6, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed July 1, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on October 2, 2003. A Notice of Abandonment was mailed on January 27, 2004.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $475.00 extension of time fee submitted with the petition on April 6, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The file is now being forwarded to Technology Center 1700 for further examination on the merits.

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

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

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AUG 31 2005

OFFICE OF PETITIONS

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

In re Application of :
Ziv, et al. :
Application No. 10/078,111 : ON PETITION
Filed: February 20, 2002 :
Attorney Docket No. ABRAHAM=3 :

This is a decision on the petition under 37 CFR 1.182, filed August 12, 2005, to change the order of the name of the first-named inventor.

The petition is **GRANTED.**

Petitioner requested that the name of the first named inventor be changed from "Ziv Abraham" to "Abraham Ziv". The request is granted.

The fee for the instant petition is $400.00. See 37 CFR 1.182 and 1.117(f). The amount of $130.00 received with the petition will be credited towards the outstanding fee. Pursuant to an authorization found on the transmittal sheet filed February 2, 2002, deposit account 02-4035 will be charged the additional $270.00 due.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

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AUG 1 2 2002

OFFICE OF PETITIONS

WORLDCOM, INC.
TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET NW
WASHINGTON, DC 20036

In re Application of
Pierson
Application No. 10/078,175
Filed: February 15, 2002
Atty. Dkt. No.: RIC-99-075
For: METHOD AND SYSTEM FOR IMPLEMENTING AN IMPROVED UNIVERSAL PACKET SWITCHING CAPABILITY IN A DATA SWITCH

DECISION DISMISSING PETITION UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed July 19, 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 February 15, 2002 without an executed oath or declaration and naming Forrest L. Pierson, Jr. as sole inventor. Accordingly, on April 10, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and surcharge.

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) a showing that such action is required to preserve the rights of the parties or to prevent irreparable damages.

The petition fails to satisfy items (2) and (5) set forth above.

As to item (2), the declaration submitted with the instant petition is unacceptable as it fails to comply with the provisions of 37 CFR 1.63 or 37 CFR 1.64. Please note that in a petition under 37 CFR 1.47(b) where no inventor is available to execute the declaration, the declaration should be executed by a corporate officer, such as the president, vice president,

secretary, or treasurer of the assignee on behalf of and as agent for the non-signing inventor. The corporate officer's title or position must be identified in the declaration. If an officer is unavailable to execute the declaration, the declaration may be signed on behalf of the corporation by one whose proof of signing authority has been submitted to the Office, such as the corporation's attorney. Petitioner's attention is directed to MPEP 409.03(b) for further guidance.

As to item (5), petitioner has not presented sufficient evidence of proprietary interest in the above-referenced application. Petitioner must establish that the invention has been assigned to applicant, that the inventor has agreed in writing to assign the invention to applicant, or that applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. Though petitioner has referenced Reel and Frame No. 012849-0034, petitioner must submit a copy of an employment agreement between the inventor and applicant or a legal memorandum signed by an attorney familiar with the law of the relevant jurisdiction stating that a court of competent jurisdiction would by weight of authority in that jurisdiction award title of the invention to Rule 47 applicant.

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 may be directed to the undersigned at (703) 305-0310.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 9

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SEP 23 2002

OFFICE OF PETITIONS

WORLDCOM, INC.
TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET NW
WASHINGTON, DC 20036

In re Application of Pierson Application No. 10/078,175 Filed: February 15, 2002 Atty. Dkt. No.: RIC-99-075 For: METHOD AND SYSTEM FOR IMPLEMENTING AN IMPROVED UNIVERSAL PACKET SWITCHING CAPABILITY IN A DATA SWITCH	DECISION GRANTING RENEWED PETITION UNDER 37 CFR 1.47(b)

This is in response to the renewed petition under 37 CFR 1.47(b), filed September 3, 2002.

The petition is **GRANTED**.

Petitioner has shown that inventor Forrest L. Pierson, Jr. 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(b). This application is hereby accorded Rule 1.47(b) status.

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

After this decision is mailed, the above-identified application will be 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060925

DATE : September 25, 2006

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 6,812,598

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

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

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

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

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

☐ **Approved** **All** changes apply.

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

☒ **Denied** State the reasons for denial below.

Comments:

The statutory requirements have not been met because the mistake of incorporating the subject matter of claim 2 rather than claim 14, attributable to applicant, was not of a clerical nature, of a typographical nature, or a mistake of minor character. A mistake is not considered to be of the "minor" character required for the issuance of a Certificate of Correction if the requested change would materially affect the scope or meaning of the patent. Claim 14 language "said magnets having multiple oscillation modes relative to said support structure" is materially different in scope and meaning from claim 2 language "said magnets having different magnetic strengths." Mistakes in a patent which are not correctable by Certificate of Correction may be correctable via filing a reissue application.

DARREN SCHOBERG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : October 2, 2004

Patent No. :6,812,598
Inventor :Jeffrey . Cheung, et al.
Patent Issued :November 2, 2004
Docket No. :01SC135US1

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Inspection of the application for the patent reveals, however, that in connection with the alleged error pertaining to column 7, line 2 of which applicant has referred; the statutory requirements have not been met because the mistake of incorporating the subject matter of claim 2 rather than claim 14, attributable to applicant, was not of a clerical nature, of a typographical nature, or a mistake of minor character. A mistake is not considered to be of the "minor" character required for the issuance of a Certificate of Correction if the requested change would materially affect the scope or meaning of the patent. Claim 14 language "said magnets having multiple oscillation modes relative to said support structure" is materially different in scope and meaning from claim 2 language "said magnets having different magnetic strengths." Mistakes in a patent which are not correctable by Certificate of Correction may be correctable via filing a reissue application. Accordingly, the Letters Patent with respect to applicants request is considered printed in accordance with the records of this office.

In view of the foregoing applicants request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-9380 Ext. 123

Koppel, Jacobs, Patrick & Heybl
555 St. Charles Dr.,
Ste 107
Thousand Oaks, CA 91360

CBN/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 3
MAIL

NOV 20 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE CA 95172-1120

In re Application Serial No.:
10/078,188

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request to Withdraw as Attorney is **GRANTED**.

Further communications will be directed to the address listed below until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. This address has been provided by the withdrawing attorney(s).

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: BeVocal, Inc.
685 Clyde Avenue
Mountain View, CA 94043-2213

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 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/078221 Patent No.: 7161556

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: The correction is accepted since the error in question is only typographical.

Sumati Lefkowitz
SUMATI LEFKOWITZ
SUPERVISORY PATENT EXAMINER
SPE

2629
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Scheef & Stone, LLP
5956 Sherry Lane, Suite 1400
Dallas, TX 75225

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JUL 21 2006
OFFICE OF PETITIONS

In re Application of	:	
Seemi KAZMI, et al.	:	
Application No. 10/078,222	:	DECISION ON PETITION
Filed: February 19, 2002	:	TO WITHDRAW
Attorney Docket No. 9021.089 (NC25866)	:	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 7, 2006.

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

A review of the file record indicates that the power of attorney to Robert H, Kelly and attorneys associated with customer number 30973 have been revoked by the assignee of the patent application on March 27, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Monica Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Alston & Bird LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON ST
SUITE 4000
CHARLOTTE NC 28280-4000

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MAR 3 0 2005

OFFICE OF PETITIONS

In re	:
Georgeson, et al.	:
Application No. 10/078,226	: DECISION ON APPLICATION
Filed: February 18, 2002	: FOR PATENT TERM ADJUSTMENT
Patent No. 6,848,312	:
Issued: February 1, 2005	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED ON ISSUED PATENT (37 C.F.R. § 1.705(d))," filed February 18, 2005. Patentees request that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred eighty-seven (187) days to three hundred seven (307) days.

The application for patent term adjustment is **DISMISSED**.

On February 1, 2005, the above-identified application matured into U.S. Patent No. 6,848,312. The patent issued with a Patent Term Adjustment of one hundred eighty-seven (187) days (314 days of PTO delay reduced by 127 days of applicant delay).

Patentees assert that they should not have been assessed Applicant delay of one hundred twenty (120) days for the submission of a "Request for Acknowledgment of Information Disclosure Statement" on April 23, 2004, after the mailing of the Notice of Allowance. Patentees state that the first Office action was mailed on December 16, 2003, and did not include a copy of the signed and dated Form 1449 filed on February 18, 2002. A Notice of Allowance was mailed on April 21, 2004, and Patentees state that they still did not receive a signed and dated copy of Form 1449.

The argument is not well-taken. Applicants had a prior opportunity to request the signed and dated copy of Form 1449 when they filed an amendment on March 16, 2004. A review of that amendment does not indicate that Applicants made the request at that time.

Receipt of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Karin A Ferriter
for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

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JUL 1 5 2004
OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki, et al. :
Application No. 10/078,240 :
Filed: February 20, 2002 :
Attorney Docket No. 740756-2438 :

ON PETITION

This is a decision on the petition, filed July 9, 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 4, 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 2825 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Date : July 14, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Shunpei Yamazaki, et al.
Application No. : 10/078,240
Filed : February 20, 2002

The above-identified application has been assigned Patent No. 6,767,805 and an issue date of July 27, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of July 27, 2004:

> "All reference to Patent No. 6,767,805 to SHUNPEI YAMAZAKI, ET AL. of JAPAN for METHOD OF MANUFACTURING A SEMICONDUCTOR DEVICEappearing in the Official Gazette of July 27, 2004, should be deleted since no patent was granted."

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

cc: Paul Harrison, Crystal Park 3-44I (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite II00 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9I0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

May 16, 2005

Shelley P. Eberle
Reed & Eberle
800 Menlo Ave. , Suite 210
Menlo Park, CA 94025

In re Application of:
Paul A. Wender et al
Serial No.: 10/078,247 On Petition
Filing Date: February 14, 2002
For: **TRANSPORTERS COMPRISING SPACED ARGININE MOIETIES**

In response to the petition received on July 2, 2004, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.D.R 1.113 in a timely manner to the second Notice to File Missing Parts of Nonprovisional Application mailed November 14, 2002.

Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned January 15, 2003.

The evidence submitted is sufficient to establish that the petitioners never received the second Notice to File Missing Parts of Nonprovisional Application mailed November 14. 2002.

Enclosed is a new Notice to File Missing Parts of Nonprovisional Application Papers giving counsel 2 months from the date of the notice to respond.

The application was abandoned in error. The office regrets any inconvenience this may have caused the client.

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

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
FROM DIRECTORS OFFICE
JUL 01 2005
TECHNOLOGY CENTER 3600

Browdy and Neimark, P.L.L.C.
624 Ninth Street, NW
Suite 300
Washington, DC 20001-5303

In re Application of:	:	
Manabu Takezaki, et.al.	:	NOTICE OF WITHDRAWAL
Application No. 10/078,271	:	FROM ISSUE
Filed: February 20, 2002	:	UNDER 37 CFR § 1.313
Attorney Docket No. TAKEZAKI=1	:	

The above-identified application is withdrawn from issue pursuant to 37 CFR § 1.313 due to the unpatentability of one or more claims. The reasons therefore will be communicated to you by the examiner.

The above-identified application is hereby withdrawn from issue.

United States Patent and Trademark Office (USPTO) records indicate that the issue and publication fees have not yet been submitted. If the issue fee and publication fee has been submitted, applicant may request: (1) a refund; or, (2) that the fee be credited to a deposit account. Applicant may, however, wait until such time as the application is either allowed or abandoned to make such request. If the application is subsequently allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may further request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified in the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquires should be directed to Supervisory Patent Examiner Jack Keith at (571)-272-6878.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Donald T. Hajec, Director
Technology Center 3600

cc: Office of Patent Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 0 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Kavak et al.	:	
Application No. 10/078,277	:	LETTER REGARDING
Filed: February 19, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. SAMS01-00171	:	

This letter is in response to the "GOOD FAITH AND CANDOR LETTER REGARDING PATENT TERM ADJUSTMENT," filed April 8, 2008. Pursuant to applicant's duty of good faith and candor to the Office, applicant requests review of the patent term adjustment to date.

The request for correction of the initial determination of patent term adjustment (PTA) is **DISMISSED**.

On November 16, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is eleven hundred three (1103) days. Applicants disclose that the patent term adjustment should be one thousand seventy (1070) days.

The Office initially determined a patent term adjustment eleven hundred three (1103) days based on an adjustment for PTO delay of one thousand sixty-nine (1069) days, pursuant to 35 USC 154(b) and 37 CFR 1.703(a)(1), and forty-three (43) days pursuant to 35 USC 154(b) and 37 CFR 1.703(a)(2), reduced by nine (9) (3+6) days of applicant delay pursuant to 37 CFR 1.704(b).

A review of the record reveals that the patent term adjustment of record is correct. Subsequent to the mailing of the Advisory

Action, the amendment after final filed June 4, 2007 was determined to place the application in condition for allowance. Accordingly, the date of filing of the amendment was properly used in calculating applicant delay pursuant to 37 CFR 1.704(b) and Office delay pursuant to 37 CFR 1.702(a)(2). The Office correctly entered these periods as 0 days and 43 days respectively.

As this letter was submitted as an advisement to the Office of an error in Applicant's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicant for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and 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 Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 04/21/2010

Applicant	: Gregory Schlottmann	: DECISION ON REQUEST FOR
Patent Number	: 6824467	: RECALCULATION of PATENT
Issue Date	: 11/30/2004	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/078,295	: OF WYETH
Filed	: 02/18/2002	:
		:

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.

PTO/SB/17 (10-07)
Approved for use through 06/30/2010. OMB 0651-0032
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

Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2008

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 2540.00

Complete if Known	
Application Number	10/078,312
Filing Date	2/15/2002
First Named Inventor	Kato et al
Examiner Name	
Art Unit	
Attorney Docket No.	100200272-1

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☑ Deposit Account Deposit Account Number: 08-2025 Deposit Account Name: Hewlett-Packard

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☑ Charge fee(s) indicated below
☐ Charge fee(s) indicated below, **except for the filing fee**
☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17
☐ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES Fee ($)	FILING FEES Small Entity Fee ($)	SEARCH FEES Fee ($)	SEARCH FEES Small Entity Fee ($)	EXAMINATION FEES Fee ($)	EXAMINATION FEES Small Entity Fee ($)	Fees Paid ($)
Utility	310	155	510	255	210	105	
Design	210	105	100	50	130	65	
Plant	210	105	310	155	160	80	
Reissue	310	155	510	255	620	310	
Provisional	210	105	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	210	105
Multiple dependent claims	370	185

Total Claims		Extra Claims		Fee ($)		Fee Paid ($)
_____	- 20 or HP =	_____	x	_____	=	_____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims		Extra Claims		Fee ($)		Fee Paid ($)
_____	- 3 or HP =	_____	x	_____	=	_____

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims Fee ($)	Fee Paid ($)
_____	_____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $260 ($130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets		Extra Sheets		Number of each additional 50 or fraction thereof		Fee ($)		Fee Paid ($)
_____	- 100 =	_____	/ 50 =	_____ (round up to a whole number)	x	_____	=	_____

4. OTHER FEE(S)

	Fees Paid ($)
Non-English Specification, $130 fee (no small entity discount)	
Other (e.g., late filing surcharge): Petition fee and 4 year Maintenance fee	2540.00

SUBMITTED BY

Signature	[signature]	Registration No. (Attorney/Agent) 27,196	Telephone 408-447-4447
Name (Print/Type)	Douglas M. Gilbert		Date June 12, 2008

This collection of information is required by 37 CFR 1.136. 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 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6706965	2004-03-16	10078312	2002-02-15	100202272-1

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

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

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		Date (YYYY-MM-DD)	2007-06-12
Name	Douglas M Gilbert	Registration Number	27196

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.**

UNITED STATES PATENT AND TRADEMARK OFFICE

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

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OFFICE OF PETITIONS

In re Patent of	:	
Kato et al.	:	
Patent No. 6706965	:	
Issue Date: 03/16/2004	:	
Application No. 10/078312	:	
Filing or 371(c) Date: 02/15/2002	:	ON PETITION
Title of Invention:	:	
DEVICE FOR DETERRING CABLE	:	
DISPLACEMENT	:	

This is a decision on the renewed petition under 37 CFR § 1.378(c), filed June 12, 2008, to reinstate the above-identified patent.

The petition is **DISMISSED**.

Any further petition to reinstate the above-identified patent 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 applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The patent issued March 16, 2004. Patentee could have paid the three and one-half (3½) year maintenance fee between March 16, 2003 and September 16, 2003, without a surcharge, or within the six (6) month grace period between September 17, 2003 and March 16, 2004. Patentee failed to do so; accordingly, the patent became expired on March 17, 2008.

The present petition

Patentee files the present petition and includes a Fee Transmittal Form authorizing this Office to charge Patentee's deposit account $2,540.00 for the petition and 4 year maintenance fee.

Applicable Law, Rules and MPEP

The applicable rule, 37 CFR 1.378(c), states:

Any petition to accept an unintentionally delayed payment of a maintenance fee filed under paragraph (a) of this section must be filed within twenty-four months after 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(i)(2); and
(3) A statement that the delay in payment of the maintenance fee was unintentional.

The petition lacks item (2).

As to item (2), Petitioner is advised that the maintenance fee is currently $930.00. The surcharge to accept an unintentionally delayed payment of a maintenance fee is $1,640.00. An additional $30.00 is required.

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

By mail: Mail Stop PETITIONS
Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-0025
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/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Intellectual Property Administration
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Fort Collins CO 80527-2400

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OFFICE OF PETITIONS

In re Patent of	:	
Kato et al.	:	
Patent No. 6706965	:	
Issue Date: 03/16/2004	:	
Application No. 10/078312	:	
Filing or 371(c) Date: 02/15/2002	:	ON PETITION
Title of Invention:	:	
DEVICE FOR DETERRING CABLE	:	
DISPLACEMENT	:	

This is a decision on the renewed petition under 37 CFR § 1.378(c), filed September 26, 2008, to reinstate the above-identified patent.

The petition is **GRANTED**.

The patent issued March 16, 2004. The grace period for paying the three and one-half (3½) year maintenance fee expired on March 16, 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).

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

The file is being forwarded to the files repository.

Telephone inquiries concerning this matter 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

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Paper No. 8

JAMES H. SALTER
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES CA 90025-1026

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JUL 01 2003
OFFICE OF PETITIONS

In re Application of Morgan Cohen Application No. 10/078,315 Filed: 15 February, 2002 Atty Docket No. 005853.P001	DECISION ON PETITION UNDER 37 CFR 1.137(f)

This is a decision on the Petition under 37 CFR 1.137(f), filed on 29 May, 2003, which is being treated as a petition filed under 37 CFR 1.137(b) to revive the above identified nonprovisional application.

The petition is **GRANTED**.

The above-identified application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) for failure to timely notify the United States Patent and Trademark Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by the following: (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;[1] (2) the petition fee as set forth in 37 CFR 1.17(m); and, (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

[1]The filing of a petition under this section will not relieve applicant of the obligation to reply to any outstanding Office action.

The present petition is in compliance with the requirements of 37 CFR 1.137(f). Accordingly, applicant's failure to notify the Office timely of a foreign filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) is accepted as an unintentionally delayed. A Notice Regarding Rescission of Nonpublication Request setting forth the projected publication date, 9 October, 2003, accompanies this decision on petition.

This application is being forwarded to Technology Center 2100, for examination in due course.

Telephone inquiries specifically concerning this decision be directed to the undersigned at 703.308.6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Attch: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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TRASK BRITT
P O BOX 2550
SALT LAKE CITY, UT 84110

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MAR 10 2005

OFFICE OF PETITIONS

In re Application of	:
Newell Ryan Moss et al	:
Application No. 10/078,322	: DECISION GRANTING PETITION
Filed: February 12, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3196-5494US	:

This is a decision on the petition, filed February 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 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) 272-3218.

This matter is being referred to Technology Center AU 3611 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 13

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

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JAN 12 2006

OFFICE OF PETITIONS

In re Application of :
Edward Fried :
Application No. 10/078,324 : ON PETITION
Filed: February 15, 2002 :
Attorney Docket No. NR005 :

This is a decision on the petition, filed September 9, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b), which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed June 10, 2004. A Notice of Abandonment was mailed on February 24, 2005.

Petitioner asserts that the Office action mailed June 10, 2004 was not received. Petitioner states that a copy of the Office action was sent to petitioner via facsimile transmission subsequent to a telephone call to the examiner on June 24, 2005. It was discovered that applicant's mailing address was incorrectly listed thereon. The petition includes, inter alia, a proposed response to the Office action and a 3-month petition for extension of time.

A review of the file record reveals that the Office communications mailed June 10, 2004 and February 24, 2005, respectively, were mailed to an incorrect correspondence address. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file is being forwarded to Technology Center 2100 for remailing the Office action of June 10, 2004.

Under the circumstances of this case, the petition fee of $750 and the extension fee of $510 are unnecessary and will be credited to counsel's deposit account.

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 2111 for consideration of the amendment filed September 9, 2005.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/29/09

TO SPE OF : ART UNIT 1646 (Spe) Nickol, Gary

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/078377 Patent No.: 6818412

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: _____

SPE

1646
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARK C. COMTOIS
DUANE MORRIS LLP
1667 K STREET, N.W.
SUITE 700
WASHINGTON, DC 20006

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AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Christopher Ludeman	:	
Application No. 10/078,362	:	DECISION ON PETITION
Filed: February 21, 2002	:	37 CFR 1.137(b)
Attorney Docket No. INT46 763 DIV	:	

This is a decision on the petition under 37 CFR §1.137(b), filed October 4, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due/Notice of Allowability mailed December 2, 2003, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 3, 2004. A Notice of Abandonment was mailed on September 20, 2004 to the above-identified addressee.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR §1.137(b) in that (1) the issue fee ($1370) and publication fee ($300) at the time of filing the petition; (2) the petition fee of $1370.00 (for a large entity) at the time of filing the petition; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed December 2, 2003 is accepted as having been unintentionally delayed.

There is no indication that petitioner has submitted Part B-Fee(s) Transmittal form PTOL-85. Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached Fee(s) Transmittal form should be completed and returned to Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, within **ONE MONTH** from the mail date of this decision.

This matter is being referred to the Office of Patent Publication to be processed into a patent.

Telephone inquiries concerning this decision should be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

Frances Hicks for
Brian Hearn
Petitions Examiner
Office of Petitions

Attachment: Part B – Fee Transmittal Form

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

David H. Tannenbaum
FULBRIGHT & JAWORSKI L.L.P.
Suite 2800
2200 Ross Avenue
Dallas, TX 75201

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MAY 2 8 2002

OFFICE OF PETITIONS

In re Application of	:	
Sharp et al.	:	
Application No. 10/078,386	:	DECISION GRANTING
Filed: February 20, 2002	:	PETITION
Docket No. 58875/P001CP1CP1/10111610	:	

This is a decision on the petition filed April 3, 2002, to accord the above-identified application a filing date of February 20, 2002.

On February 20, 2002, the application was filed.

On March 15, 2002, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

In response, the present petition was filed alleging that drawings were deposited on February 20, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Drawings - 8 sheets (Informal)" on February 20, 2002.[1] Petitioner has also submitted a copy of the missing documentation- 8 pages of drawings.

Upon review of the record, the drawings deposited on February 20, 2002, have not been located. However, the evidence is convincing that the application papers deposited on February 20, 2002, included 8 pages of drawings, and that the drawings were subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of February 20, 2002.

In view of the above, the petition is **granted**. The copy of the 8 pages of drawings submitted with the petition will be used for examination purposes.

The petition fee of $130 will be credited to petitioner's deposit account.

The Notice mailed March 15, 2002, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of February 20, 2002, using the application papers filed on February 20, 2002 and the copy of the 8 pages of drawings filed on April 3, 2002.

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[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

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

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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KENNY CLAMP LLC
671 TETON DRIVE
LOTHIAN, MD 20711

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JUL 20 2009

OFFICE OF PETITIONS

In re Application of
Wayne H. Robinson
Application No. 10/078,430
Filed: February 21, 2002
Attorney Docket No.

ON PETITION

This is a decision on the petition filed June 11, 2009 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication Fee in a timely manner in reply to the Notice of Allowance mailed March 30, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 1, 2007.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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TECHNOLOGY CENTER 2100

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

Pillsbury Winthrop LLP
P.O. Box 10500
McLean, VA 22102

In re Application of:
S. Eric MCCALL, et al.
Application No. 10/078,494
Filed: February 21, 2002
For: COLLECTING, ANALYZING, CONSOLIDATING, DELIVERING AND UTILIZING DATA RELATING TO A CURRENT EVENT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed July 8, 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: S. Eric McCall
1061 Fairlawn Drive
Rockledge, FL 32955

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 03 2005

OFFICE OF PETITIONS

ANTONY C. EDWARDS
SUITE 800 - 1708 DOLPHIN AVENUE
KELOWNA BC V1Y 9S4 CA CANADA

In re Application of :
Richard J. Billingsley :
Application No. 10/078,523 :
Filed: February 21, 2002 :
Attorney Docket No. TE/10955 :

ON PETITION

This is a decision on the petition, filed February 16, 2005, 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 February 25, 2004. A Notice of Abandonment was mailed on September 1, 2004.

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 2836 for consideration of the amendment filed August 19, 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
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SUGHRUE MION PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20037-3213

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OFFICE OF PETITIONS

In re Application of	:	
Hiraguchi, et al.	:	
Application No. 10/078,527	:	ON PETITION
Filed: February 21, 2002	:	
Attorney Docket No. Q66504	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 26, 2004.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed June 24, 2003. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on September 25, 2003. A Notice of Abandonment was mailed on February 2, 2004.

Petitioner contends that he did timely file a reply. In support, petitioner has included a copy of a filing receipt dated September 24, 2003, identifying the above application and itemizing "Amendment Under 37 C.F.R. §1.111". In addition, Office records indicate that the Office did receive the $246 for the excess claims.

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

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The matter is being forwarded to Group Art Unit 3654 for consideration of the Amendment, filed September 24, 2003 (copy supplied on petition).

Telephone inquiries regarding 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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Peter K. Skiff
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria VA 22313-1404

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JAN 3 1 2003

OFFICE OF PETITIONS

Applicant: Nichols et al
Appl. No.: 10/078,536
Filing Date: February 21, 2002
Title: CIGARETTE HAVING REDUCED SIDESTREAM SMOKE
Attorney Docket No.: 021238-513
Pub. No.: US 2002/0174875 A1
Pub. Date: November 28, 2001

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was on November 28, 2002.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains several misspelling that may affect the public's ability to appreciate the technical disclosure of the patent application publication or affect the scope of the provisional rights.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." The instant request does not identify a material mistake in the publication made by the Office:

The instant request identifies several minor typographical errors such as "that" for "than", "open end" for "open distal end", "on" for "one" and "base en" for "base end", which are not material mistakes because the technical disclosure and the claims are understandable.

The typographical errors identified by applicant are Office mistakes, but they are not material mistakes as required by 37 CFR 1.221(b). 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 misspelling of "that" for "than" in claim 36, "open end" for "open distal end" in claim 61, "on" for "one" in claim 62 and "base en" for "base end" in claim 63, are minor typographical errors which are clearly understandable from reading each claim, as the terms are not read in a vacuum. The extra "1." in claim 63 is not a PTO error as the language is part of the original specification as filed.

The applicant is advised that a "request for republication of an application previously published"

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), should be submitted via the EFS system and any question 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.

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

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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SUGHRUE MION, PLLC
401 CASTRO STREET
SUITE 220
MOUNTAIN VIEW CA 94041-2007

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Silviu Reinhorn	:	
Application No. 10/078,542	:	ON PETITION
Filed: February 21, 2002	:	
Attorney Docket No. 6629USA/PDC/ORBOT/OR	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 2006, to revive the above-identified application.

The petition is **GRANTED**.

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

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed September 3, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 4, 2004.

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

This matter is being referred to Patent Publication.

Karen Creasy

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

cc:
PATENT COUNSEL
APPLIED MATERIALS, INC.
P.O. BOX 450A
SANTA CLARA CA 95052

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-25-07

TO SPE OF : ART UNIT 1630

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/078547 Patent No.: 6927318

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 COC be approved

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

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

1632

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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DUANE GROVES
3036 EAGLE BEND RD
SPRING HILL FL 34606

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OCT 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Duane Groves	:	
Application No. 10/078,553	:	ON PETITION
Filed: February 20, 2002	:	
Title: Engine Dehydrator	:	

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed July 16, 2005. The Office apologizes for the delay.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled, "Renewed Petition under 37 CFR 1.137(b)". No further petition fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed April 8, 2003, which set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on July 9, 2003. The Office mailed a Notice of Abandonment on July 13, 2004. Applicant filed a petition to withdraw the holding of abandonment on August 10, 2004. However, the petition was dismissed in an Office communication mailed on October 19, 2004.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m) - currently $750 for a small entity; (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has not satisfied requirement (1). Applicant has not submitted a proper reply to the April 8, 2003 final Office action. A proper response to a final office action consists of either: (1) an amendment that *prima facie* (i.e. on its face) places the application in condition for allowance; (2) a Notice of Appeal (and the required fee); (3) a Request for Continued Examination (and the required fee), or (4) a continuing application.

Furthermore, it is noted that the Amendment submitted with the petition did not contain a signature. Pursuant to 37 CFR 1.33(b), all correspondence must be signed.

Receipt of the $750 petition fee is acknowledged.

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

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

By FAX: 571-273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DUANE GROVES
3036 EAGLE BEND RD
SPRING HILL FL 34606

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FEB 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Duane Groves	:	
Application No. 10/078,553	:	ON PETITION
Filed: February 20, 2002	:	
Title: Engine Dehydrator	:	

This is in response to renewed petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed December 11, 2008.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled, "Renewed Petition under 37 CFR 1.137(b)". No further petition fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed April 8, 2003, which set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on July 9, 2003. The Office mailed a Notice of Abandonment on July 13, 2004. Applicant filed a petition to withdraw the holding of abandonment on August 10, 2004. However, the petition was dismissed in an Office communication mailed on October 19, 2004. Applicant filed a petition to revive under 37 CFR 1.137(b) on July 29, 2005.

However, that petition was dismissed in a decision mailed on October 22, 2008.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m) - currently $750 for a small entity; (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has not satisfied requirement (1). Applicant has not submitted a proper reply to the April 8, 2003 final Office action. On renewed petition, applicant must submit either: (1) a Notice of Appeal (and the required fee); (2) a Request for Continued Examination (and the required fee), or (3) a continuing application.

Furthermore, it is noted that the Amendment submitted with the petition did not contain a signature. Pursuant to 37 CFR 1.33(b), all correspondence must be signed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

By FAX: 571-273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may 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
WASHINGTON, D.C. 20231
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Paper No. 6

LAW OFFICES OF POTTHAST & ASSOCIATES
2712 N. ASHLAND AVENUE
CHICAGO, IL 60614-1106

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FEB 0 6 2003

OFFICE OF PETITIONS

In re Application of
Zbigniew G. Lassota et al
Application No. 10/078,600
Filed: February 19, 2002
Attorney Docket No. FET-25

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 20, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed March 13, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 14, 2002.

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 $720.00 extension of time submitted with the petition on November 20, 2002 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 the Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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In re Application of
William Diaz-Lopez

Application No. 10078607

Filed: February 19,2002

Attorney Docket No. BDLI-0200

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 12-SEP-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

JAMES M. STOVER
NCR CORPORATION
1700 SOUTH PATTERSON BLVD, WHQ4
DAYTON OH 45479

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DEC 11 2006

OFFICE OF PETITIONS

In re Application of :
Karen A. Papierniak et al. :
Application No. 10/078,616 :
Filed: February 19, 2002 : DECISION ON PETITION
Attorney Docket No. 9846 : UNDER 37 C.F.R. §1.137(B)
Title: METHODS, SYSTEMS AND :
DATA STRUCTURES TO CONSTRUCT, :
SUBMIT, AND PROCESS MULTI- :
ATTRIBUTAL SERCHES :

This is a decision on the petition filed August 3, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed June 2, 2005, which set a shortened statutory period for reply of three months. An after-final amendment was received on November 8, 2005 along with a two-month extension of time (the response bore a certificate of mailing dated November 2, 2005), and an advisory action was

1 A grantable petition pursuant to 37 C.F.R §1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

mailed on December 6, 2005. No extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on November 3, 2005.

With the present petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. Petitioner has further included a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 and the associated fee.

No terminal disclaimer is required. The RCE has been accepted as the required reply under 37 C.F.R. §1.137(b)(1). The amendment of November 2, 2005 shall serve as the required submission.

As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the RCE can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

2 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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Pepper Hamilton LLP
One Mellon Center, 50th Floor
500 Grant Street
Pittsburgh, PA 15219

In re Application of	:
Daum et al.	: DECISION DISMISSING PETITION
Application No. 10/078,622	: UNDER 37 CFR 1.78(a)(3)
Filed: February 19, 2002	:
Attorney Docket No. 126381.00901	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 17, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application, No. 10/044,475, filed January 10, 2002.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition 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.

Initially, the Office notes that applicants did not indicate the relationship between the instant application and prior-filed nonprovisional application, No. 10/044,475, in the amendment filed concurrently with the instant petition. Accordingly, applicants failed to comply with the requirements of 37 CFR 1.78(a)(2)(iii). Before the petition under 37 CFR 1.78(a)(3) can be granted, applicants must file a renewed petition under 37 CFR 1.78(a)(3) and an amendment[1] or an Application Data Sheet, containing a reference to application, No. 10/044,475, and indicating its relationship to the instant application.

The Office further notes that applicants indicated in the first line of the specification submitted on filing that the instant application claimed priority to provisional application, No. 60/273,850, filed March 7, 2001. However, it is unclear whether applicants intended for the instant application to still claim priority to the prior-filed provisional application. The amendment filed concurrently with the instant petition does not contain a reference to provisional application, No. 60/273,850, and does not indicate that the instant application claims priority under 35 U.S.C. § 119(e) to the prior-filed provisional application. If applicants desire to claim priority to provisional application, No. 60/273,850, applicants must file a new amendment in compliance with 37 CFR 1.121 or an Application Data Sheet, referencing provisional application, No. 60/273,850, and nonprovisional application, No. 10/044,475, and indicating the relationship of the applications.

Further correspondence with respect to this matter should be addressed as follows:

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[1] *Note* 37 CFR 1.121 and 37 CFR 1.4(c).

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any questions concerning this matter may be directed to Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commission
for Patent Examination Policy

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Pepper Hamilton LLP
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500 Grant Street
Pittsburgh, PA 15219

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OFFICE OF PETITIONS

In re Application of	:	
Daum et al.	:	DECISION GRANTING PETITION
Application No. 10/078,622	:	UNDER 37 CFR 1.78(a)(3)
Filed: February 19, 2002	:	
Attorney Docket No. 126381.00901	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed July 20, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application, No. 10/044,475, filed January 10, 2002.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application, No. 10/044,475, has been included in an amendment and an Application Data Sheet (ADS), as provided by 37 CFR

1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, No. 10/044,475, filed January 10, 2002, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Christina Tartera Donnell at (571) 272-3211. 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 3731 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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MAR 2 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Paper No. 5

HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

In re Application of
Jin et al.

Application No. 10/078,635
Filed: February 19, 2002
For: **WIRELESS ENHANCER USING A SWITCH MATRIX**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as agent of record received on February 17, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents of record are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

The file is being returned to TC 2600 Central Files to await action in appropriate turn.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

Cc: L. Howard Chen
Duane Morris, LLP
One market, Spear Tower
San Francisco, CA 94105-1104

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Washington, D.C. 20231
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Paper No. 12

Finnegan Henderson Farabow
Garrett & Dunner
1300 I. Street, NW
Washington, DC 20005-3315

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OFFICE OF PETITIONS

In re Application of
Miida et al.
Application No. 10/078,673
Filed: February 21, 2002
Attorney Docket No. 05905.0158

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed April 3, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. Extensions of time under the provisions of 37 CFR 1.136(a) were submitted on October 22, 2002. Accordingly, the above-identified application became abandoned on October 23, 2002.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 8

AT&T CORP
PO BOX 4110
MIDDLETOWN NJ 07748

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JUN 18 2003
OFFICE OF PETITIONS

In re Application of Burg, et al. Application No. 10/078,685 Filed: February 19, 2002 Attorney Docket No. 2001-0142	: : : : :	ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(f), filed May 21, 2003, which is being treated as a petition under 37 CFR 1.137(b).

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on February 19, 2002 with a nonpublication request and certification under 35 U.S.C. 122(b)(2)(B)(i). On January 21, 2003, applicant filed a Request to Rescind Previous Nonpublication Request.

With the instant petition, applicant states that the application was foreign filed on February 12, 2003.

As the Request to Rescind Previous Nonpublication Request was filed before the foreign filing, the application will be treated as if the nonpublication request was never made.[1]

Accordingly, no petition fee was required, and none has been charged.

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[1] See "Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2)(B)(ii)-(iv)", available at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm.

As requested, the Request and Certification Under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A corrected filing receipt indicating a projected publication date of August 21, 2003 accompanies this decision.

The application file is being forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: corrected filing receipt (2 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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www.uspto.go

Paper No. 6

BURGESS & BEREZNAK LLP
800 WEST EL CAMINO REAL
SUITE 180
MOUNTAIN VIEW, CA 94040

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OFFICE OF PETITIONS

In re Application of	:	
Tseng, Kenneth Hing Key	:	
Application No. 10/078,732	:	ON PETITION
Filed: February 19, 2002	:	
Attorney Docket No. 07716.P001	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 27, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed November 21, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on February 22, 2004. A Notice of Abandonment was mailed August 23, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 2800 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

In re Application of	:	
Patrick L. Connor	:	
Application No. 10/078,772	:	DECISION ON PETITION
Filed: February 19, 2002	:	TO WITHDRAW
Attorney Docket No. 884.739US1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 30, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg, Woessner & Kluth, P.A. has been revoked by the assignee of the patent application on May 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Intel/Blakely**
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025-1030

#5/Amdt
a
9/16/03
K. Parrell

OIPE JC42
AUG 1 8 2003
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Donald Henry Willis
Serial No.	:	10/078,776
Filed	:	February 19, 2002
For	:	COMPENSATION FOR ADJACENT PIXEL INTERDEPENDENCE
Art Unit	:	2672
Examiner	:	Fouladi Semnani, Faranak

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AMENDMENT PURSUANT TO 37 C.F.R. §1.111

RECEIVED
AUG 1 9 2003
Technology Center 2600

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated June 3, 2003 in the subject patent application, the following amendments and comments are submitted and reconsideration of the claim rejections is respectfully requested.

Amendments to the **Specification** begin on page 2 of the Response.
Amendments to the **Claims** begin on page 3 of the Response.
Remarks begin on page 6 of the Response.

Certificate of Mailing Under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in a postage paid envelope addressed to: Hon. Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

Date: 14 Aug 2003 By: [signature] Registration No. 28,298

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 11 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC.
2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON NJ 08543-5312

In re Application of:
Donald Henry Willis
Application No.: 10/078,776
Filed: February 19, 2002
For: **COMPENSATION FOR ADJACENT PIXEL INTERDEPENDENCE**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Petition to Withdraw Holding of Abandonment filed January 21, 2005, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The petition is **GRANTED**.

This application was held abandoned for failure to properly and timely respond with respect to the final Office action mailed May 7, 2004. A Notice of Abandonment was mailed November 24, 2004.

In support of the petition, petitioners has included with the petition a copy of a Request for Continued Examination, a copy of a petition for three month extension of time, and certificate of facsimile transmission, and a copy of an amendment response.

A review of the file record reveals that Applicant's Request for Continued Examination, with submission, has been matched with the application. The Office's revenue accounting and management software indicates that Applicant's fees for the three (3) month extensions of time and RCE filing fee, was received on November 8, 2004 and processed on February 22, 2005. Therefore, the record is clear that the application was ***not abandoned in fact***.

Therefore, the Notice of Abandonment is vacated and the holding of abandonment withdrawn. The Office regrets any inconvenience caused by the mailing of the Notice of Abandonment.

The application file is being forwarded to TC 2600's Technical Support Staff for processing the Request for Continued Examination and entry of Applicant's submission. From there, the application will be forwarded to the examiner to be processed in appropriate turn.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC.
2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON, NJ 08543-5312

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SEP 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Donald H. WILLIS	:	
Application No. 10/078,776	:	DECISION ON PETITION
Filed: February 19, 2002	:	
Attorney Docket No. PU020037	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 08, 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.

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) and (2). Petitioner failed to provide the required reply to the final office action of July 17, 2006. The petition in the above-identified application was not accompanied by payment of the required fee. No consideration on the merits can be given that petition until the required fee is received.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 17, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for

allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(II)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). See attached courtesy copy of examiner's advisory action.

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 Michelle R. Eason at (571) 272-4231.

David A. Bucei
Petitions Examiner
Office of Petitions

Attachment: Courtesy copy of examiners Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/078,776	Applicant(s) WILLIS, DONALD HENRY	
	Examiner Jeffery A. Brier	Art Unit 2628	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

Continuation of 3. NOTE:

The extensive amendments to the claims raise new issues.

Continuation of 11. does NOT place the application in condition for allowance because:

Applicants arguments filed on 3/8/2007 have been fully conisdered, however, they are not persuasive because paragraphs [0155], [0163], [0171], and [0191] of Kasahara teaches the argued pixel interdependence effect. Adjacent pixels in Kasahara affect each other causing artifacts in the motion image and adjacent pixels in applicant affect each other causing artifacts in the image. Applicant needs to define in the claims any difference that may exist between Kasahara's pixel interdependence and applicant's pixel interdependence. Applicants claims cover any type of imager and any type of pixel interdependence effect.

Continuation of 13. Other:

The drawings filed on 3/8/2007 overcomes the objection to the drawings set forth in the office action mailed on 7/17/2006.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A Brier whose telephone number is (571) 272-7656. The examiner can normally be reached on M-F from 7:30 to 4:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi, can be reached at (571) 272-7664. The fax phone Number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jeffery A. Brier/
Primary Examiner, Division 2628

UNITED STATES 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 S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC.
2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON, NJ 08543-5312

COPY MAILED

MAR 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Donald H. WILLIS	:	
Application No. 10/078,776	:	DECISION ON PETITION
Filed: February 19, 2002	:	
Attorney Docket No. PU020037	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 01, 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 July 17, 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 October 18, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(II)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). See attached courtesy copy of examiner's advisory action.

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). Petitioner failed to provide the required reply to the final office action of July 17, 2006. No consideration on the merits can be given that petition until the required fee is received.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Attachment: Courtesy copy of examiners Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/078,776	WILLIS, DONALD HENRY	
	Examiner	Art Unit	
	Jeffery A. Brier	2628	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

Continuation of 3. NOTE:

The extensive amendments to the claims raise new issues..

Continuation of 11. does NOT place the application in condition for allowance because:

Applicants arguments filed on 10/01/2007 have been fully conisdered, however, they are not persuasive because paragraphs [0155], [0163], [0171], and [0191] of Kasahara teaches the argued pixel interdependence effect. Adjacent pixels in Kasahara affect each other causing artifacts in the motion image and adjacent pixels in applicant affect each other causing artifacts in the image. Applicant needs to define in the claims any difference that may exist between Kasahara's pixel interdependence and applicant's pixel interdependence. Applicants claims cover any type of imager and any type of pixel interdependence effect. .

Continuation of 13. Other:

The drawings filed on 10/01/2007 overcomes the objection to the drawings set forth in the office action mailed on 7/17/2006.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A Brier whose telephone number is (571) 272-7656. The examiner can normally be reached on M-F from 7:30 to 4:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi, can be reached at (571) 272-7664. The fax phone Number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jeffery A. Brier/
Primary Examiner, Division 2628

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2 INDEPENCENCE WAY
P.O. BOX 5312
PRINCETON NJ 08543-5312

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SEP 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Donald Henry WILLIS	:	
Application No. 10/078,778	:	DESCISION ON PETITION
Filed: February 19, 2002	:	
Attorney Docket No. PU020026	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed April 19, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on June 20,2006. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of October 19, 2005 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2629 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason

Michelle R. Eason
Petitions Examiner
Office of Petitions

1334

PTO/SB/64 (08-03)
Approved for usethrough 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) PU020026

OIPE
APR 30 2007
PATENT & TRADEMARK OFFICE

First named inventor: Donald Henry Willis

Application No.: 10/078,778 Art Unit: 2629

Filed: February 19, 2002 Examiner: Tammy T. Pham

Title: METHOD AND APPARATUS FOR SPARKLE REDUCTION USING A SPLIT LOWPASS FILTER ARRANGEMENT

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 308-6916

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee
☐ Small entity - fee $_____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee $1500 (37 CFR 1.17(m))

2. Reply and/or fee
A. The reply and/or fee to the above-noted Office action in the form of Amendment (identify type of reply):
☐ has been filed previously on _____ .
☒ is enclosed herewith.

B. The issue fee of $ _____
☐ has been paid previously on _____ .
☐ is enclosed herewith.

05/01/2007 MGEBREM1 00000034 070832 10078778
01 FC:1453 1500.00 DA

This collection of information is required by 37 CFR 1.137. Theinformation 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 Chiefinformation Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box1450, Alexandria, VA 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.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $_____ for a small entity or $_____ for other than a small entity) disclaiming a period equivalent to the period of abandonment is enclosed herewith (see PTO/SB/63).

4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

April 27, 2007
Date

Reg. # 22,856
Signature

Daniel E. Sragow
Typed or printed name

Telephone Number: (609) 734-6832

Thomson Licensing LLC
Address

P. O. Box 5312, Princeton, NJ 08543
Address

Enclosures: ☒ Fee Payment
☒ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other : _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(A)]

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the Patent and Trademark Office at (703) 308-6916.

April 27, 2007
Date

Karen Schlauch
Signature

Karen Schlauch
Typed or printed name of person signing certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

06142005

YAO-DONG MA
14586 PENSHAM DR.
FRISCO, TX 75035

JUN 16 2005

In re Application of: YAO-DONG MA Serial No.: 10/078,801 Filed: 19 February 2002 Title: FULL COLOR CHOLESTERIC DISPLAYS EMPLOYING CHOLESTERIC COLOR FILTER	:	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed June 21, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is **DENIED**.

This application was held abandoned for failure to timely reply to the Election/Restriction Requirement Office action mailed October 1, 2003, setting forth a three-month period of response expiring on January 1, 2004. A Notice of Abandonment was mailed on June 16, 2004.

Petitioner asserts that a response to the Election/Restriction Requirement Office action was timely mailed to the US Patent and Trademark Office (USPTO) on November 18, 2003 via regular mail. This is evidenced by 1) a copy of an amendment associated with the reply, and 2) a statement alleging that the reply was timely submitted.

The response to the Election/Restriction Requirement Office action is not of record in the application file and cannot be located. However, the procedure for determining whether a response is considered timely filed by being mailed but not received in the Office is set forth in 37 C.F. R. § 1.8.

> Under 37 C.F. R. § 1.8, correspondence which includes a certificate of mailing, stating the date of deposit, may be considered timely even if not received timely by the Office. The Office must receive 1) timely notification of the previous

mailing, 2) an additional copy of the previously mailed correspondence and certificate, and 3) a statement which attests on a personal knowledge basis that the earlier correspondence was timely mailed. Absent such a certificate of mailing, under 37 C.F. R. § 1.6, correspondence received by Office is stamped with the date of receipt, unless the correspondence was deposited as "Express Mail" or as a facsimile transmission.

Petitioner's response to the Election/Restriction Requirement Office action did not include a Certificate of Mailing as required under 37 C.F. R. § 1.8 or Express Mail as per 37 C.F. R. § 1.10. Absent a certificate or Express Mail date, the date accorded to a reply is the date of receipt by the Office. Since no reply was received until the copy was sent on June 21, 2004, there was no timely response to the Election/Restriction Requirement Office action mailed October 1, 2003.

The application thus became abandoned as a matter of law on January 1, 2004. The petition is therefore denied.

Petitioner may wish to consider filing a petition to revive under 37 CFR § 1.137. Inquiries regarding filing a petition to revive should be directed to the Office of Petitions.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the mailing date of this decision in order to be considered timely.

Any inquiry regarding this decision should be directed to Jose G. Dees, Special Program Examiner, at (571) 272-1569.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & 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

RANDALL J. KNUTH P.C.
901 PIMLICO DRIVE , SUITE 1A
CENTERVILLE OH 45459

Paper No. 8

COPY MAILED

JUL 06 2007

OFFICE OF PETITIONS

In re Application of :
WILLIAM GOGGIN et al. :
Application No. 10/078,830 :
Filed: February 19, 2002 :
Attorney Docket No. TOK00-034 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 23, 2007 to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the non-final Office action mailed on March 23, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned, by operation of law, on June 24, 2004. A Notice of Abandonment was mailed on October 18, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (3).

The showing of record raises questions as to whether the abandonment of this application was unintentional within the meaning of 35 USC 41(a)(7) and CFR 1.137(b).

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 Commissioner 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 4 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional.

Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on June 24, 2004. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). As Randall Knuth (Knuth) and William Goggin (Goggin) et al. were the party having the right to reply at the date of abandonment, Knuth and Goggin should explain why this application became abandoned while it was under his control and what efforts Knuth and Goggin made to further reply and with whom this matter was discussed. When did Knuth and Goggin become aware of the abandonment of this application? Knuth and Goggin must explain the circumstances surrounding the discovery of the abandonment of this application almost 2 years after the mailing of the Notice of Abandonment.

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), Knuth and Goggin and whoever else was involved with this application at the time of abandonment. Statements are required from 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 USC 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 clear that any protracted delay (here, over 4 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival. Furthermore as the record shows that petitioner was aware that no response had been filed and the application was accordingly abandoned, an explanation from petitioner as to why the long delay in seeking revival should be excused, independently of delay in replying which caused abandonment in the first instance is required.

Any renewed petition may be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
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 Jean Duverne at (571) 272-6051 or in his absence to the undersigned.

David Bucci
Petitions Examiner
Office of Petitions

BAKER & DANIELS LLP
111 East Wayne Street, Suite 800
Fort Wayne, IN 46802

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RANDALL J. KNUTH P.C.
901 PIMLICO DRIVE , SUITE 1A
CENTERVILLE OH 45459

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OCT 16 2007

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
William GOGGIN et al.	:	
Application No. 10/078,830	:	
Filed: February 19, 2002	:	
Attorney Docket No. TOKOO-034	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 4, 2007, 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 March 23, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on June 24, 2004.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/710,643, filed February 23, 2007.

The revocation of Prior Powers of Attorney, filed December 26, 2006, has not been approved because it does not comply with 37 CFR 3.73(b).

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

cc: BAKER & DANIELS LLP
111 East Wayne Street, Suite 800
Fort Wayne, IN 46802

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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KONNEKER & SMITH P. C.
660 NORTH CENTRAL EXPRESSWAY
SUITE 230
PLANO, TX 75074

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MAY 03 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
James D. Vick, Jr. :
Application No. 10/078,839 :
Filed: February 19, 2002 :
Attorney Docket No. 2002-IP-006435 :

This is a decision on the petition, filed April 25, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 18, 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 3672 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
Washington, D.C. 20231
www.uspto.gov

Paper No. 5

W. Thomas Timmons
The White House on Turtle Creek
2401 Turtle Creek Blvd.
Dallas, TX 75219-4760

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JUL 1 7 2002

OFFICE OF PETITIONS

In re Application of	:	
Palmer	:	
Application No. 10/078,860	:	DECISION ON
Filed: April 10, 2002	:	PETITION
Attorney Docket No. P-A946	:	

This is a decision on the petition filed April 10, 2002, to accord the above-identified application a filing date of February 20, 2002.

The petition is dismissed.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. This is not final agency action within the meaning of 5 U.S.C. § 704.

On February 20, 2002, the application was deposited.

On March 14, 2002, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

In response, the present petition was filed alleging that drawings were deposited on February 20, 2002.

In support of petitioner's allegation, petitioner has supplied three pages of drawings.

All the evidence present in the file has been carefully considered, but is not persuasive that drawings were submitted with the original application.

Clearly petitioner intended to file drawings, and petitioner believed drawings were filed. However, petitioner has failed to establish that drawings were received by the Office.

The last portion of MPEP 513 states,

> Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application) ... The Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g. a postcard receipt ....

While petitioner apparently believes that drawings were filed on February 20, 2002, the file of application No. 10/078,860[1] shows that drawings were not received, since no such drawings are present in the file. An intent to file a complete application, and the belief that the application was complete, does not constitute sufficient evidence to establish that the actual application, as filed with the PTO, was complete. Unfortunately, patent applicants and their representatives, who intend to file complete applications, occasionally file applications which are missing one or more pages, due to clerical error, the copying machine, or another reason. The best evidence of what was filed on February 20, 2002, is the application file itself. Accordingly, an applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this regard, declarations by individuals involved in the preparation and filing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed are generally not more persuasive of what was actually filed in the USPTO than the contents of the application file. Such declarations, as in this case, are usually made weeks or months after the actual events recited. In this case, the declaration filed on April 10, 2002 , was made seven weeks after the application was received. Thus, the declaration does not have more probative value than the official government record of what was actual received in the USPTO on February 20, 2002.

The instant petition illustrates the reason the USPTO established a practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice, which was has been in existence for many years and is well publicized, requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.[2]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

If a request of reconsideration is not timely filed, the file will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of April 10, 2002, the date the missing parts were supplied, using the application papers filed on February 20, 200 and the three sheets of drawings filed on April 10, 2002.

---

[1] The file contains the actual papers received and the file is an official government record prepared and maintained by disinterested USPTO employees as a part of their customary and usual duties.

[2] See section 503, Manual Of Patent Examining Procedure (MPEP 503).

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Wei Te (Joseph) Chung
Foxconn International, Inc.
1650 Memorex Drive
Santa Clara, CA 95050

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OFFICE OF PETITIONS

In re Application of	:	
Ying Tang, et. al.	:	
Application No. 10/078,898	:	DECISION ON PETITION
Filed: February 19, 2002	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.181 filed January 22, 2008, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the final Office action mailed May 2, 2007. A Notice of Abandonment was mailed on November 19, 2007.

Petitioner states that a timely reply, in the form of an amendment, was sent to the Office via facsimile transmission on August 2, 2007. Petitioner has submitted a copy of the previously submitted correspondence that includes an Auto-Reply Facsimile Transmission report that shows the Office received the amendment on August 2, 2007, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of May 2, 2007 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been transmitted by facsimile on August 2, 2007.

This application is being referred to Technology Center Art Unit 3629 for appropriate action in the normal course of business on the reply received with petition.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 6

ELIZABETH E. NUGENT
CHOATE HALL & STEWART
EXCHANGE PLACE
53 STATE STREET
BOSTON, MA 02109

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FEB 03 2003

OFFICE OF PETITIONS

In re Application of :
Will Graylin :
Application No. 10/078,914 :
Filed: February 20, 2002 :
Attorney Docket No. 2003428-0004 :

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 2100.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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P.O. Box 1450
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Paper No. 9

HONEYWELL INTERNATIONAL INC.
15801 WOODS EDGE ROAD
COLONIAL HEIGHTS, VA 23834

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MAY 0 4 2004

OFFICE OF PETITIONS

In re Application of
William B. Bedwell et al
Application No. 10/078,919
Filed: February 19, 2002
Attorney Docket No. H0003420

ON PETITION

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.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 21, 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 August 22, 2003.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future

correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 1762.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: BINGHAM McCUTCHEN
THREE EMBARCADERO CENTER
SAN FRANCISCO, CA 94111-4067

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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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MAY 2 6 2005

OFFICE OF PETITIONS

In re Application of Saverio Carl Falco, et al. Application No. 10/078,929 Filed: February 19, 2002 Docket No.: BB1357USDIV	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for a failure to respond to a non-final Office action mailed June 3, 2004. This decision precedes the mailing of a Notice of Abandonment.

The 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. 11/031,206 filed January 7, 2005.

It is noted that petitioner submitted an extension of time with the present petition. Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Therefore, no extension of time fees are due on a petition for revival. The $1020 extension of time fee submitted with this petition is being credited to counsel's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

1/10/05

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U.S. Patent and Trademark Office; U.S. DEPARMENT OF COMMERCE
Under the paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) FY 2005 *(Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)*	Docket Number (Optional) BB1357USDIV
Application Number 10/078929	Filed February 19, 2002
For DISEASE RESISTANCE GENES	
Art Unit 1638	Examiner Phuong T. Bui

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

	Fee	Small Entity Fee	
☐ One month (37 CFR 1.17(a)(1))	$120	$60	$
☐ Two months (37 CFR 1.17(a)(2))	$450	$225	$
☑ Three months (37 CFR 1.17(a)(3))	$1020	$510	$ 1,020.00
☐ Four months (37 CFR 1.17(a)(4))	$1590	$795	$
☐ Five months (37 CFR 1.17(a)(5))	$2160	$1080	$

01/13/2005 DTESSEM1 00000072 041928 10078929

☐ Applicant claims small entity status. See 37 CFR 1.27.

01 FC:1253 1020.00 DA

☐ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☑ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 04-1928. I have enclosed a duplicate copy of this sheet.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the
- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).
- ☑ attorney or agent of record. Registration Number 30,971
- ☐ attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34

Lynne M. Christenbury
Signature

January 7, 2005
Date

LYNNE M. CHRISTENBURY
Typed or printed name

(302) 992-5481
Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐ Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.136(a). 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 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Adjustment Date: 05/26/2005 AKELLY
01/13/2005 DTESSEM1 00000072 041928 10078929
01 FC:1253 1020.00 CR

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MAR 16 2007

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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

In re Application of	:
Ernesst M. Wright et al	:
Serial No.: 10/078,934	: PETITION DECISION
Filed: March 10, 2005	:
Attorney Docket No.: UCLA-011	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed August 9, 2005. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

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
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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

COPY MAILED

JUL 3 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Stanley T. Crooke	:	
Application No. 10/078,949	:	DECISION ON PETITION
Filed: February 20, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ISIS-5027	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 5, 2006, 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 concurrently filed amendment.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after 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) and (iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the delayed claim for benefit of priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt

accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the applications should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1635 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/078,949	02/20/2002	1635	2346	ISIS-5027	61	13

CONFIRMATION NO. 8454

CORRECTED FILING RECEIPT

OC000000025101465

32650
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Date Mailed: 07/31/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Stanley T. Crooke, Carlsbad, CA;

Power of Attorney: The patent practitioners associated with Customer Number **32650**.

Domestic Priority data as claimed by applicant

This application is a CON of 09/479,783 01/07/2000
which is a DIV of 08/870,608 06/06/1997 PAT 6,107,094
which is a CIP of 08/659,440 06/06/1996 PAT 5,898,031

Foreign Applications

If Required, Foreign Filing License Granted: 04/09/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/078,949

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Oligoribonucleotides and ribonucleases for cleaving RNA

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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ISIS PHARMACEUTICALS, INC.
1896 RUTHERFORD ROAD
CARLSBAD, CA 92008

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Stanley T. Crooke	:	
Application No. 10/078,949	:	DECISION ON PETITION
Filed: February 20, 2002	:	TO WITHDRAW
Attorney Docket No. ISIS-5027	:	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 12, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to ISIS PHARMACEUTICALS, INC. has been revoked by the assignee of the patent application on July 24, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Denise Williams at 571-272-8930.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES IA 50309-2721

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DEC 05 2007

OFFICE OF PETITIONS

In re Application of :
Stephen C. Vincent :
Application No. 10/079,010 :
In re Patent No. 7,170,389 :
Filing Date: February 19, 2002 :
Issue Date: January 30, 2007 :
Attorney Docket Number: :
P04860US1 :
Title: APPARATUS FOR TANTALUM :
PENTOXIDE MOISTURE BARRIER IN :
FILM RESISTORS :

DECISION ON PETITION
UNDER 37 C.F.R. § 3.81(B)

This is a decision on the petition filed May 11, 2007, pursuant to 37 C.F.R. § 3.81(b)[1], to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

With the present petition, Petitioner requests that a Certificate of Correction be issued to correct the city and state that is associated with the assignee that appears on the face of the patent. Petitioner submits a "Certificate of Correction" for this purpose, which indicates that the address that is associated with the assignee that appears on the face of the patent should be changed from "Sanford, ME" to "Columbus, NE."

37 C.F.R. §3.81(b), effective June 25, 2004, reads:

> (b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date

1 See Official Gazette, June 22, 2004.

> 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.

Office records show that the assignment for the above-identified application that was received in the Office on September 7, 2001, which was prior to the submission of the Issue Fee on December 7, 2006.

The petition is **GRANTED.**

Payment of the required $130 processing fee is acknowledged. The required $100 certificate of correction fee will be charged to Petitioner's Deposit Account, as authorized in the petition, in due course.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. 14

Paul A. Leipold
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

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OCT 29 2003

OFFICE OF PETITIONS

In re Application of
Zhihao Yang, et al.
Application No. 10/079,039
Filed: February 20, 2002
Attorney Docket No. 82839SMR

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 28, 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 September 29, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

After the application is received in the Office of Petitions, the application will be forwarded to Technology Center AU 2853 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 12, 2005

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction on Patent No.: 6,904,580

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

All are approved.

[signature]
SPE

2823
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

ALLEN H. ERICKSON
26 HATFIELD AVENUE
SIDNEY, NY 13838-1333

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AUG 1 4 2003

OFFICE OF PETITIONS

In re Application of Anderson et al. Application No. 10/079,118 Filed: February 20, 2002 Attorney Docket No. 6204	DECISION GRANTING PETITION UNDER 37 CFR 1.137(f)

This is a decision on the "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)," filed June 30, 2003, which is properly treated as a petition to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a corresponding PCT application (No. PCT/US03/05522) filed on February 20, 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 foreign or international application[1].

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application 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.

---

[1] A Rescission of Nonpublication Request was filed on February 26, 2003. However, it was not accompanied by a Notice of Foreign Filing.

Pursuant to the request to rescind filed February 26, 2003, the previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. As stated on the "Notice Regarding Rescission of Nonpublication Request" mailed April 10, 2003 in response thereto, the projected publication date is August 21, 2003.

The application is being forwarded to Technology Center 3765 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

S.N. 10/079,141

Paper No.:20070808

DATE : August 8, 2007

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction on Patent No.: 7126453

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:

There is no statement from the orignal inventors agreeing to the addition of Peter Van Gastel as an inventor.

BRIAN ZIMMERMAN
PRIMARY EXAMINER

SPE: Brian Zimmerman **Art Unit** 2612

BK

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

S.N. 10/079,141

Paper No.:20070808

DATE : August 8, 2007

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction on Patent No.: 7126453

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:

There is no statement from the orignal inventors agreeing to the addition of Peter Van Gastel as an inventor.

BRIAN ZIMMERMAN
PRIMARY EXAMINER

SPE: Brian Zimmerman **Art Unit** 2612

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 6

ROBERT R. WEAVER
109 COURTNEY LANE
MOORESVILLE, NC 28117

COPY MAILED
JAN 14 2004
OFFICE OF PETITIONS

In re Application of	:	
Robert R. Weaver	:	
Application No. 10/079,150	:	ON PETITION
Filed: February 20, 2002	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 22, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed March 20, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 21, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

Ronald Coslick
FOLEY & LARDNER
2029 Century Park East, Suite 3500
Los Angeles, CA 90067-3021

MAILED

SEP 2 5 2002

Technology Center 2100

In re Application of:	)	
Victor Demjanenko, et al.	)	
Application No. 10/079,202	)	
Filed: February 19, 2002	)	**DECISION ON REQUEST FOR**
For: METHODS AND APPARATUS FOR	)	**WITHDRAWAL AS ATTORNEY**
CONFIGURABLE OR	)	
ASYMMETRIC FORWARD ERROR	)	
CORRECTION	)	

This is a decision on the Request To Withdraw from Representation filed June 24, 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**.

There is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED**.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

FOR

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software,
and Electronic Commerce
(703) 305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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JAN 1 7 2003

Technology Center 2100

Paper No. 6

Ronald Coslick
FOLEY & LARDNER
2029 Century Park East, Suite 3500
Los Angeles, CA 90067-3021

In re Application of: Victor Demjanenko, et al.	)	
Application No. 10/079,202	)	
Filed: February 19, 2002	)	**DECISION ON REQUEST FOR**
For: METHODS AND APPARATUS FOR	)	**WITHDRAWAL AS ATTORNEY**
CONFIGURABLE OR	)	
ASYMMETRIC FORWARD ERROR	)	
CORRECTION	)	

This is a decision on the Request To Withdraw from Representation filed January 13, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

for Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Dr. Victor Demjanenko
VoCal Technologies Ltd.
200 John James Audubon Pkwy.
Buffalo, NY 14228

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:____

DATE : 6/20/07

TO SPE OF : ART UNIT 2186

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/079229 Patent No: 6871265 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: _____

MATTHEW KIM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
SPE

2186
Art Unit

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NEIL A. DUCHEZ
RENNER, OTTO, BOISSELLE & SKLAR
19TH FLOOR
1621 EUCLID AVENUE
CLEVELAND, OH 44115

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OFFICE OF PETITIONS

In re Application of :
Stewart E. Hooper, et al. :
Application No. 10/079,269 :
Filed: February 19, 2002 :
Attorney Docket No. YAMAP0800US :

ON PETITION

This is a decision on the petition, filed September 3, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 28, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 1765 for further processing of the request for continued examination under 37 CFR 1.114 filed September 3, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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DONALD JEFFREY BOATWRIGHT
10310 BOLTON CT
CHARLOTTE, NC 28269

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OFFICE OF PETITIONS

In re Application of
Donald Jeffrey Boatwright
Application No. 10/079279
Filed: February 20, 2002
Attorney Docket No. NONE

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 22, 2005, to revive the above-identified application.

The petition is **GRANTED.**

Petitioner is advised that as of December 8, 2004, the issue fee payment increased to $700. It is noted that petitioner submitted a check on March 22, 2005, for $1,550 to cover the petition, the publication, and the issue fees, however, the issue fee is deficient in the amount of $200. On March 24, 2005, petitioner submitted a check in the amount of $880. The fee deficiency amount of $200 will be deducted from the $880, and the balance of $680 will be refunded to petitioner by treasury check in due course.

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 matter may be directed to Wanda Banks at (571) 272-3277.

The application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Mailed: DEC - 3 2004

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Paper Number _____

In re application of
Ratnam Sooriyakumaran et al.
Serial No. 10//079,289
Filed: February 19,2002
For: FLUORINATED SILSEQUIOXANE POLYMERS AND USE THEROF IN LITHOGRAPHIC PHOTORESIST COMPOSITIONS

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181, filed August 20, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of June 28, 2004, for failure to timely file a proper reply to the Office letter mailed November 19, 2003 be withdrawn since the applicants did timely file a reply on December 19, 2003. (Copies of the papers filed December 19, 2003 are attached to the instant petition as well as a copy of the USPTO date stamped postcard receipt dated December 22, 2003.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's reply was properly filed on December 19, 2003 as evidenced by the USPTO date stamped return receipt postcard indicating receipt of the reply at the USPTO on December 22, 2003. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed June 28, 2003 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for entry, processing and consideration of the reply originally filed December 19, 2003.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Karen Cannan
Reed & Eberle LLP
800 Menlo Avenue, Suite 210
Menlo Park, CA 94025

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OFFICE OF PETITIONS

Mintz Levin
1400 Page Mill Road
Palo Alto, California 94303-1124

In re Application of
Sooriyakumaran et al.
Application No. 10/079,289
Filed: Feb. 19, 2002
Attorney Docket No. YOR920000693US2

: DECISION GRANTING PETITION

This decision is in response to applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT" TIMELY[1] filed on April 13, 2007requesting that the Office adjust the Patent Term Adjustment determination from 112 days to a determination of 556 days.

Applicant's request for PTA is **GRANTED to the extent herein indicated.** The Office will *sua sponte* adjust the PTA determination at the time of the mailing of the notice of allowance from 112 days to 603 days.

Applicants argue that the applicants are entitled to Office delays of 621 days under 37 CFR 1.702(a)(2) and concede 65 days of applicant delay under 37 CFR 1.704(b). Applicants failed to acknowledge the reduction of 61 days under 37 CFR 1.704)(b) for the response to the final rejection being more than three months after the mailing of the final rejection.[2] Applicants argue that it was mailed with a certificate of mailing on November 9, 2006 within three months.

Applicants arguments have been considered and are persuasive to the extent herein discussed. The Office notes that applicants are entitled to 624 days of PTA under 37 CFR 1.702(a)(2). The Office notes that the reply to the restriction was filed on December 19, 2003 and the Office reply date was January 3, 2006. Accordingly, the Office had a 624 day delay for this time period under 37 CFR 1.702(a)(2). Applicants note that the Office delayed by a period of 157 days under 37 CFR 1.702(a)(1). Accordingly, the Office delay amounted to 781 days. Applicants concede the 65-day reduction under 37 CFR 1.704(b) for the submission of a response dated 6/7/2006. Applicants arguments failed to acknowledged the 52-day reduction under 37 CFR 1.704(c)(7) for the submission of a non-compliant response to the election requirement.[3] Applicants argument as to the sixty-one day reduction is not persuasive because the Office notes that applicants reply stops the three month clock on date of receipt in the Office if applicant mails by certificate of

---

[1] Issue fee paid on May 23, 2007.

[2] The final rejection was mailed on 8/21/2006 and applicant replied on 1/29/2007.

[3] Applicant initially responded to a restriction requirement on 10/28/2006 and such requirement was not complete. The complete reply was filed on December 19, 2003 as determined by petition decision. Accordingly, the reduction began on October 29, 2003 and ended on December 19, 2003.

mailing and is treated differently from a mailing by express mail. See 37 CFR 1.703(f). Accordingly the reply date for PTA purposes, January 29, 2007. The overall amount of Office delay is 781 and applicantsdelay is 178. Total PTA delay at time of mailing of notice of allowance is 603 days.

After the mailing of this decision, the application will be forwarded to the Office of Patent Publications for a prompt issuance of the patent

Any additional PTA pursuant to 37 CFR 1.702(b) or 1.702(a)(4) will be added to the PTA at the time of the issuance of the patent and will be reflected in the issue notification letter that is mailed to applicants approximately three weeks prior to issuance of the patent.

Applicants have submitted the $200.00 fee for this application. No additional fees are required.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, Office of Patent Legal Administration at 571-272-7757.

Kery Fries

Kery Fries
Senior Legal Advisor
Office of Deputy Commissioner
for Patent Examination Policy

CC: Copy of Adjusted Pair Calculation

Day : Friday
Date: 7/20/2007

PALM INTRANET

Time: 15:15:36

PTA Calculations for Application: 10/079289			
Application Filing Date:	02/19/2002	PTO Delay (PTO):	536
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	424
Post-Issue Petitions:	0	Total PTA (days):	603
PTO Delay Adjustment:	491		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
65	07/20/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	491		
58	02/26/2007	MAIL NOTICE OF ALLOWANCE			
57	02/26/2007	MAIL EXAMINER'S AMENDMENT			
56	02/20/2007	ISSUE REVISION COMPLETED			
55	02/20/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
54	02/20/2007	CASE DOCKETED TO EXAMINER IN GAU			
53	02/17/2007	EXAMINER'S AMENDMENT COMMUNICATION			
52	02/17/2007	NOTICE OF ALLOWABILITY			
51	12/22/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	02/15/2007	PARALEGAL TD ACCEPTED			
49	02/05/2007	DATE FORWARDED TO EXAMINER			
48	01/29/2007	AMENDMENT AFTER FINAL REJECTION		61	43
47	01/29/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
46	12/22/2003	REFERENCE CAPTURE ON IDS			
45	12/22/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	12/22/2003	PRELIMINARY AMENDMENT			
43	08/29/2006	MAIL FINAL REJECTION (PTOL - 326)			
42	08/21/2006	FINAL REJECTION			
41	06/13/2006	DATE FORWARDED TO EXAMINER			
40	06/07/2006	RESPONSE AFTER NON-FINAL ACTION		65	38
39	06/07/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	01/03/2006	MAIL NON-FINAL REJECTION	379		30

37	12/27/2005	NON-FINAL REJECTION			
36	08/20/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	10/27/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	02/19/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	08/20/2004	REFERENCE CAPTURE ON IDS			
32	08/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	30
31	10/20/2005	DATE FORWARDED TO EXAMINER			
30	08/20/2004	RESPONSE TO ELECTION / RESTRICTION FILED		298	15
29	10/20/2005	CASE DOCKETED TO EXAMINER IN GAU			
28	09/15/2005	CASE DOCKETED TO EXAMINER IN GAU			
27	02/01/2005	MAIL NOTICE OF RESCINDED ABANDONMENT			
26	01/31/2005	NOTICE OF RESCINDED ABANDONMENT IN TCS			
25	12/03/2004	PETITION TO REVIVE APPLICATION - GRANTED			
24	08/20/2004	PETITION ENTERED			
23	08/20/2004	WORKFLOW INCOMING PETITION IFW			
22	06/28/2004	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
21	06/26/2004	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
20	11/19/2003	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
19	11/15/2003	REFERENCE CAPTURE ON IDS			
18	11/15/2003	IFW AMENDED CASE PROCESSING COMPLETE			
17	10/27/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	11/15/2003	DATE FORWARDED TO EXAMINER			
15.1	10/27/2003	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
15	10/27/2003	RESPONSE TO ELECTION / RESTRICTION FILED			
14	09/23/2003	MAIL RESTRICTION REQUIREMENT	157		-1
13	09/17/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
12	08/25/2002	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
11	06/17/2002	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			

10	06/17/2002	PRELIMINARY AMENDMENT			
9	05/30/2002	PRELIMINARY AMENDMENT			
8	02/19/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	04/16/2002	CASE DOCKETED TO EXAMINER IN GAU			
6	04/08/2002	APPLICATION DISPATCHED FROM OIPE			
5	04/03/2002	APPLICATION IS NOW COMPLETE			
4	04/01/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
3	03/27/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	03/06/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/19/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 10

Mr. Gary John Corey
21445 Bundy Canyon Road
Wildomar CA 92595

In re Application of: GARY JOHN COREY	)	
Application No.: 10/079,309	)	
Filed: February 21, 2002	)	**DECISION ON PETITION TO**
For: **MULTI-AXES TOOL**	)	**WITHDRAW THE HOLDING OF**
COMPENSATION: 3D AND 5-AXIS REAL-	)	**ABANDONMENT**
TIME INTERACTIVE TOOL	)	
COMPENSATION INSIDE THE CNC	)	
MACHINE TOOL CONTROLLER	)	

This is in reply to Petitioner's communication, filed in the United States Patent and Trademark Office on January 02, 2004. This communication will be treated as a petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 for the purpose of this decision. No fee is required.

The Petition is **GRANTED**.

BACKGROUND

A review of the file record reveals that:

1. The Examiner, on February 21, 2003, issued a first Office Action.
2. Petitioner, a *pro se* applicant, on May 08, 2003, timely submitted an amendment after non-final Office Action which included a substitute specification.
3. The Examiner, on June 10, 2003, did not enter the substitute specification because it failed to comply with 37 CFR 1.125(b), and issued a final Office Action.
4. The Petitioner, on August 12, 2003, submitted an amendment after final Office Action.
5. The Examiner did not enter Petitioner's amendment after final Office Action, and issued an Advisory Action on August 27, 2003.
6. The Petitioner, on November 12, 2003, submitted a second amendment after final Office Action, which was not entered.
7. The application was held abandoned on December 11, 2003.
8. Petitioner, on January 02, 2004, petitioned to Withdraw the Holding of Abandonment under 37 CFR 1.181.

OPINION

The relevant portions of the Manual of Patent Examining Procedure (MPEP) are reproduced as follows:

MPEP 714.03.

...

> If an amendment submitted after March 1, 2001, fails to comply with 37 CFR 1.121 (as revised on September 8, 2000), the Office will notify applicant by a Notice of Non-Compliant Amendment, that the amendment fails to comply with the requirements of 37 CFR 1.121 and applicant will be given a period of time in which to comply with the rule.
>
> ...
>
> Where the amendment is *bona fide* but contains a serious omission, the examiner should: A) if there is sufficient time remaining for applicant's reply to be filed within the time period for reply to the non-final Office action (or within any extension pursuant to 37 CFR 1.136(a)), notify applicant that the omission must be supplied within the time period for reply; or B) if there is insufficient time remaining, issue an Office action setting a 1-month time period to complete the reply pursuant to 37 CFR 1.135(c). In either event, the examiner should not further examine the application on its merits unless and until the omission is timely supplied.
>
> If a new time period for reply is set pursuant to 37 CFR 1.135(c), applicant must supply the omission within this new time period for reply (or any extensions under 37 CFR 1.136(a) thereof) in order to avoid abandonment of the application. The applicant, however, may file a continuing application during this period (in addition or as an alternative to supplying the omission), and may also file any further reply as permitted under 37 CFR 1.111.
>
> Where there is sufficient time remaining in the period for reply (including extensions under 37 CFR 1.136(a)), the applicant may simply be notified that the omission must be supplied within the remaining time period for reply.

Petitioner's amendment after non-final Office Action filed May 08, 2003 contained serious omissions. There were no Petitioner's rebuttal evidence and arguments concerning the Examiner's grounds of rejection. And the amendment failed to comply with 37 CFR 1.121(c). As a result, Petitioner's amendment should have been construed either as one which was not fully responsive, or as a *bona fide* attempt which contained a serious omission. In either case, according to MPEP 714.03, Petitioner should have been given a period of time in which to comply with the rule. Instead, the Examiner issued a final Office Action. The Examiner stated that "the substitute specification filed on 5/8/03 has not been entered" and "the amendment to the claims filed on 5/8/03 does not comply with the requirements of 37 CFR 1.121(c)." The final Office Action contained no new ground of rejection or any reference to the ground of rejection of the previous non-final Office Action. Consequently, the final Office Action June 10, 2003 was premature.

Since Petitioner is a *pro se* applicant, the amendment after non-final Office Action dated May 08, 2003, is not fully responsive, and Examiner's final Office Action dated June 10, 2003 is premature, the holding of abandonment dated December 11, 2003 is hereby withdrawn and the final Office Action dated June 10, 2003 is vacated.

The application will be forwarded to the Examiner of Record to issue a Notice of Non-Compliant Amendment or a non-final Office Action. The Examiner will notify Petitioner that the amendment after non-final Office Action dated May 08, 2003 fails to comply with the requirements of 37 CFR 1.121. Petitioner will be given a TIME PERIOD of ONE MONTH or THIRTY DAYS from the mailing of the Notice of Non-Compliant Amendment or the non-final Office Action, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

It is noted that Petitioner is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Petitioner is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Petitioner is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Bot LeDynh, J.D., Ph.D.
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-0651

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BENJAMIN AARON ADLER
ADLER & ASSOCIATES
8011 CANDLE LANE
HOUSTON TX 77071

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OFFICE OF PETITIONS

In re Application of	:	
Bedwell, et al.	:	
Application No. 10/079,326	:	ON PETITION
Filed: February 20, 2002	:	
Attorney Docket No. D 6394	:	

This is a decision on the petition to revive under 37 CFR 1.137(a), filed July 12, 2004.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely reply to the Notice to Comply with Requirements for Patent Applications Containing Nucelotide Sequence And/Or Amino Acid Sequence Disclosures, mailed May 2, 2002. This Notice set a shortened statutory period for reply of two months to submit a substitute computer readable form of the sequence listing and the required statement. No extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the above-identified application became abandoned on July 3, 2003. A Notice of Abandonment was mailed on August 15, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); and (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable. The instant petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable: "The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[2]

With regards to item (3), petitioner states that he did not receive the Notice mailed May 2, 2002. To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the **docket record** where the nonreceived Office action would have been entered had it been received and docketed.[3] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[4] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[5]

Alternative Venue and Other Matters:

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to **37 CFR 1.137(b)** on the basis of **unintentional** delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $665 for a small entity[6]; 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.

---

[1] In re Mattulath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[3] See MPEP 711.03(c)(II).

[4] MPEP 711.03(c)(II) (emphasis added).

[5] Id.

[6] Petitioner is reminded that Office fees will change effective October 1, 2005.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0272[7].

Cliff Congo
Petitions Attorney
Office of Petitions

[7] Effective September 27, 2004, the undersigned's phone number will be changed to (571) 272-3207.

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Paper No. 8

BENJAMIN AARON ADLER
ADLER & ASSOCIATES
8011 CANDLE LANE
HOUSTON TX 77071

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OFFICE OF PETITIONS

In re Application of	:	
Bedwell, et al.	:	
Application No. 10/079,326	:	ON PETITION
Filed: February 20, 2002	:	
Attorney Docket No. D 6394	:	

This is a decision on the renewed petition to revive under 37 CFR 1.137(a), filed September 27, 2004.

The renewed petition under 37 CFR 1.137(a) is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the Notice to Comply with Requirements for Patent Applications Containing Nucelotide Sequence And/Or Amino Acid Sequence Disclosures, mailed May 2, 2002. This Notice set a shortened statutory period for reply of two months to submit a substitute computer readable form of the sequence listing and the required statement. No extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the above-identified application became abandoned on July 3, 2003. A Notice of Abandonment was mailed on August 15, 2004. Applicants filed a petition to revive under 37 CFR 1.137(a) on July 12, 2004, stating that they never received the May 2, 2002 Notice. However, because applicants failed to provide a proper docket record, the petition was dismissed in a decision mailed on September 9, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); and (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable: "The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[2]

With regards to item (3), petitioner states that he did not receive the Notice mailed May 2, 2002. To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[3] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[4] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[5]

On renewed petition, petitioner has submitted a proper docket report. The docket report shows all replies docketed for the date of July 2, 2002, the date that is two months after the May 2, 2002 Notice. Petitioner's docket report does not contain a due date entry for the May 2, 2002 Notice on July 2, 2002.

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[1] In re Mattulath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[3] See MPEP 711.03(c)(II).

[4] MPEP 711.03(c)(II) (emphasis added).

[5] Id.

Accordingly, it is concluded that petitioner has established that the entire period of delay was unavoidable.

The application file is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Charles Pearson
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. ____

BOHAN MATHERS & ASSOCIATES LLC
P O BOX 17707
PORTLAND, ME 04112-8707

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MAY 0 4 2004

OFFICE OF PETITIONS

In re Application of	:
Dieter Girlich et al	:
Application No. 10/079,331	: DECISION GRANTING PETITION
Filed: February 20, 2002	: UNDER 37 CFR 313(c)(2)
Attorney Docket No. 02-013	:

This is a decision on the petition, filed April 30, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the concurrently filed petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to Application No. PCT/DE00/02597, as set forth in the Application Data Sheet (ADS) accompanying the instant petition.

The petitions are **GRANTED**.

As to the Petition under 37 CFR 1.313(c)(2):

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 11, 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]

As to the Petition under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate

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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).

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 20, 2002, and was pending at the time of filing of the instant petition. A reference to the above-noted, prior-filed PCT application has been included in an ADS, in the manner provided for by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the proper claim herein for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the above-noted, prior-filed PCT application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. §§ 120 and 365(c). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed PCT application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center Art Unit 1725 for processing of the RCE and for appropriate action on the ADS, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application (Application No. PCT/DE00/02597).

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
De, et al.	:	
Application No. 10/079,334	:	ON PETITION
Filed: February 20, 2002	:	
Attorney Docket No. I-2-188.2US	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 28, 2008.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice of Allowance mailed August 27, 2007. This Office action set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on November 28, 2007. A Notice of Abandonment was mailed on January 2, 2008.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

Here, the docket record submitted on petition is only the prosecution history for the instant application. As set forth above, to establish that the August 27, 2007 Office action was not received, petitioner would need to submit his docket records showing all of his replies docketed for the due date of November 27, 2007.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

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[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
De, et al.	:	
Application No. 10/079,334	:	ON PETITION
Filed: February 20, 2002	:	
Attorney Docket No. I-2-188.2US	:	

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 5, 2008.

The petition under 37 CFR 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice of Allowance mailed August 27, 2007. This Office action set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on November 28, 2007. A Notice of Abandonment was mailed on January 2, 2008. Applicants filed a petition to withdraw the holding of abandonment on January 28, 2008. However, the petition was dismissed in a decision mailed on February 19, 2008.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

Here, petitioner has submitted a copy of a master docket report showing all of his replies docketed for a due date of November 27, 2007. An entry for the instant application is absent, supporting the contention that the Notice of Allowance was not received.

The application is being forwarded to Group Art Unit 2611 for re-mailing of the August 27, 2007 Notice of Allowance and Notice of Allowability, setting a new three month period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/12/09

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10079334 Patent No.: 7447255 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: All Changes Approved.

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

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APR 2 8 2003

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TECHNOLOGY CENTER 2600

ARNOLD & PORTER
IP DOCKETING DEPARTMENT; RM 1126(b)
555 12TH STREET, N.W.
WASHINGTON DC 20004-1206

In re Application of :
John E. Draim :
Application No. 10/079,411 :
Filed: February 22, 2002 :
For: SYSTEM AND METHOD FOR SATELLITE COMMUNICATIONS :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on February 19, 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. 28,381 are granted the request for withdraw of attorney/agent. The following attorneys/agents remain of record:

Jay Chawla	Dennis R. Hoerner
Lawrence M. Lavin, Jr.	Joseph W. Ricigliano
William Sekyi	Milan M. Vinnola
Brian K. Stierwalt	Donna Scherer

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

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: John E. Draim
9310 Telfer Court
Vienna, VA 22182

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MAR 2 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

John E. Draim
9310 Telfer Court
Vienna VA 22182

In re Application of Draim, et al. Application No. 10/079,411 Filed: February 22, 2002 For: SYSTEM AND METHOD FOR SATELLITE COMMUNICATIONS	: : : : : :	DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed February 13, 2004 (paper No. 7) which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a copy of Mr. John Emery Draim's birth certificate, in support of the petition, evidencing that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

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WENDEROTH, LIND & PONACK, L.L.P.
Attn: Joseph M. Gorski
2033 K Street N.W.
Suite 800
Washington DC 20006-1021

MAILED APR 11 2006

In re Application of: HATA et al.
Appl. No.: 10/079,494
Filed: February 22, 2002
For: COMPONENT MOUNTING APPARATUS AND METHOD

: DECISION ON PETITION

This is a decision on the petition filed on July 1, 2005 by which petitioner requests withdrawal of the Restriction Requirement as expressed in the Office Action mailed February 18, 2005. The petition is considered pursuant to 37 CFR 1.181, and no fee is required. The delay in consideration of the petition is regretted.

The petition is granted to the extent indicated below.

Review of the prosecution history shows that:

1. The application filed on February 22, 2002 contained claims 1-20 directed to an apparatus and claims 21-24 directed to a method.

2. On March 1, 2004, the examiner promulgated a requirement for restriction between claims 1 – 20, a component mounting apparatus and claims 21-24, a method for mounting components.

3. On March 26, 2004, applicant elected invention I, claims 1 – 20 directed to the apparatus without traverse.

4. On June 3, 2004 the examiner promulgated a first Office action on the merits of the patentability of elected claims 1 – 20.

5. On December 2, 2004 a response was filed by petitioner which substantively amended claims 1 – 13, cancelled claims 14 – 24 and added claims 25 – 60.
The added claims generally corresponded as follows:
25 – 32, 47, 48, 55,56 directed to an apparatus,
33-35, 51, 59 directed to a method (utilizing the same apparatus of claim 1),
36-38, 52, 60 directed to a method (utilizing the same apparatus of claim 25),
39-42, 53 directed to a generalized method, and
43 – 46, 54 directed to a generalized method.

6. On February 18, 2005, the examiner promulgated an Office action under *ex parte* Quayle practice, setting forth a second restriction requirement. The requirement divided method from apparatus under MPEP 806.05(c), setting forth the position that the method claims could be practiced by a materially different apparatus or by hand.

7. On April 14, 2005 petitioner filed a traversal of the second restriction requirement, noting that claims 33 and 36 require the structure of claim 1 and 25 for practice of the method, and posits that since claims 39 and 43 can not be

restricted there from, they must also be examined. No further illumination as to petitioner's position regarding claims 39 and 43 is seen in the traversal.

8. On April 15, 2005 and interview was conducted between the examiner and petitioner where it appears petitioner further submitted his traversal to the second restriction requirement. The examiner remained unconvinced and pointed to MPEP 06.05(e) for support of his position.

9. On June 21, 2005 the examiner promulgated an Advisory action, presumably in response to the April 14, 2005 traversal, essentially reiterating that which was contained in the April 15, 2005 interview summary.

10. On July 1, 2005 petitioner filed a petition for supervisory review of the February 18, 2005 restriction requirement.

11. As the period for response to the February 18, 2005 Quayle/Restriction remained tolling upon petitioner, on July 18, 2005 petitioner filed a response cancelling method claims but authorizing re-insertion of any method claims resultant from this petition decision.

At the onset, it is noted that the restriction from which applicant petitions has never been made final by the examiner. Such is required for consideration of a petition under 37 CFR 1.144. However, as it essentially the same restriction as issued in the March 2004 restriction (same reasons, different claims), and given the extent to which applicant has sought to traverse the second requirement, the petition has been construed as a request for supervisory review of the requirement under 37 CFR 1.181.

Initially, it is noted *ex parte* Quayle practice is described in MPEPE 710.02(b) as follows:

When an application is in condition for allowance, except as to matters of form, such as correction of the specification, a new oath, etc., the application will be considered special and prompt action taken to require correction of formal matters. Such action should include an indication on the Office Action Summary form PTOL-326 that prosecution on the merits is closed in accordance with the decision in Ex parte Quayle, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). A 2-month shortened statutory period for reply should be set.

See also MPEP 714.14. It does not appear that the promulgation of an *ex parte* Quayle action was proper following the amendment dated December 12, 2004, because formal matters such as those described above were not outstanding. The outstanding issue was one of the election of the invention by original presentation/examination: whether the claims as amended (added) were directed to the same invention as that previously elected without traverse, regardless of burden upon the office for examination, or whether the claims as amended contained an invention not previously elected AND presented undue burden upon the office to include into the next examination. It is wholly inappropriate to close prosecution on an applicant while at the same time requiring a selection of invention. For at least this reason, the *ex parte* Quayle action must be vacated.

Turning now to the second restriction requirement, petition sets forth an essentially correct recitation of the reasons why portions of the examiner's second restriction requirement fails. The examiner repeatedly relies upon MPEP 806.05(e) for support of the requirement for restriction. This section states in part:

Process and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (A) that the process ***as claimed*** can be practiced by another materially different apparatus or by hand; or (B) that the apparatus ***as claimed*** can be used to practice another materially different process.

Each of independent claims 33 and 36 requires "providing...a first mounting head section...and a second mounting head section". The method claims are limited to the use of a particular structure. It is not seen how the examiner can argue, given the explicit recitation of structure, that the method could be practiced by a materially different structure or by hand. Restriction based upon MPEP 806.05(e), for at least claims 33, 36 and those dependent thereon is unsustainable.

A more appropriate reason for insisting upon restriction lies in MPEP 806.05(h) which states:

A product and a process of using the product can be shown to be distinct inventions if either or both of the following can be shown: (A) the process of using as claimed can be practiced with another materially different product; or (B) the product as claimed can be used in a materially different process. The burden is on the examiner to provide an example, but the example need not be documented. If the applicant either proves or provides a convincing argument that the alternative use suggested by the examiner cannot be accomplished, the burden is on the examiner to support a viable alternative use or withdraw the requirement.

This type of restriction requirement includes conditions for rejoinder of invention, once examination has identified an allowable elected apparatus. Noting the conditions for rejoinder as set forth in pertinent section of the MPEP:

when the examiner has required restriction between product and process claims and applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

Looking at added method claims 33 and 36 it appears as though they have been drafted in accordance with the guidelines set forth in MPEP 806.05(h) related to product and process of using with respect to rejoinder. It appears as though petitioner felt confidence in the allowability of claims 1 and 25 thus presenting equivalent method claims requiring the allowable structure for practice of the method in rejoinder of the invention.

Petitioner did not, however, include these structural limitations into method claims 39 – 46, 53 and 54. These claims basically re-present subject matter of a scope equivalent to original claims 21 –24, non-elected without traverse. Rejoinder of these claims with the elected and examined invention remains inappropriate.

In summary, the restriction requirement set forth February 18, 2005 is unsustainable under MPEP 806.05(e). The issuance of said requirement within the limited application of ex parte Quayle practice is wholly inappropriate and against Office practice. The appropriate grounds of restriction in the instant application fall under MPEP 806.05(h) and restrict out claims 39 – 46, 53 and 54 as either 1) being directed to an invention non-elected without traverse from the first requirement for restriction or 2) not having the corresponding structure to warrant rejoinder under MPEP 806.05(h). Accordingly, claims 33-38, 51, 52, 59 and 60 are appropriate for rejoinder and claims 39 – 46, 53 and 54 remain subject to a non-final restriction requirement.

As all other issues appear resolved and petitioner has given permission to re-instate a different group of method claims by examiner's amendment, in order to expedite prosecution it is suggested that the examiner contact petitioner to finalize approval of an examiner's amendment consistent with the decision herein and gain authorization to cancel claims 39 – 46, 53 and 54. Should petitioner desire to request reconsideration of this decision or to challenge the proposed basis for alternative restriction set forth herein, he should indicate such to the examiner when contacted as the appropriate next course of action would be to formally vacate the prior ex parte Quayle action and issue a restriction requirement as outlined hereinabove.

PETITION GRANTED-IN-PART

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

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OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki :
Application No. 10/079,512 :
Filed: February 22, 2002 :
Attorney Docket No. 740756-2441 :

ON PETITION

This is a decision on the petition, filed April 22, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 21, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2826 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

#16

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

March 2005

Westerman, Hattori, Daniels & Adrian, LLP
1250 Connecticut Avenue, NW
Suite 700
Washington, DC 20036

MAR 2 8 2005

In re Application of:
Kazutaka Yoshizawa et al.
Serial No.: 10/079,591
Filed: February 22, 2002
Attorney Docket No.: 020188

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181(a) filed on June 18, 2004. There is no fee for this petition.

The petition is **GRANTED**.

A final Office action was mailed on December 3, 2003. A Notice of Abandonment was mailed on June 15, 2004 indicating that the application was abandoned for failure to timely file a proper reply to the Office letter mailed on December 3, 2003.

A proper reply to a final rejection under 37 C.F.R. § 1.113 may only be either (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 C.F.R. § 1.114.

Petitioner asserts that a Request for Continued Examination (RCE) with an amendment as the submission required under 37 C.F.R. § 1.114 was timely filed in the United States Patent and Trademark Office (USPTO) on March 2, 2004. To support this assertion, petitioner has submitted copies of the RCE and amendment and a copy of a stamped return postcard which properly identifies and acknowledges receipt of the RCE and amendment by the USPTO on March 2, 2004.

A review of the application file record reveals that the RCE and amendment having been acknowledged as being received in the USPTO on March 2, 2004 are not of record in the application file and cannot be located. On the other hand, Office records indicate that a check for the fees for the RCE ($770.00) and for the amendment ($190.00) was received on March 2, 2004 and posted on March 4, 2004.

In any case, M.P.E.P. § 503 states that a postcard receipt which itemizes and properly

identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. Accordingly, it is concluded that the RCE and amendment were timely received but lost after receipt thereof.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed June 15, 2004 is hereby **VACATED** and the holding of abandonment is withdrawn.

The RCE filed with the petition on June 18, 2004 will be processed by the Technology Center 2800 support staff and the examiner will be prepare an Office action in response to the amendment filed with the RCE.

Any inquiries regarding this decision should be directed to Special Programs Examiner Edward Westin at (571) 272-1638.

James Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

MORRIS MANNING & MARTIN LLP
1600 ATLANTA FINANCIAL CENTER
3343 PEACHTREE ROAD, NE
ATLANTA GA 30326-1044

In re Application of
Tomislave F. Milinusic
Application No. 10/079,639
Filed: February 19, 2002
For: SURVEILLANCE SYSTEM

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw holding of abandonment filed April 21, 2005 to withdraw the holding of abandonment. No fee is required.

This application became abandoned for failure to timely submit the issue fee due to the Notice of Allowance mailed August 24, 2004. A Notice of Abandonment was mailed March 7, 2005.

Petitioner asserts that the Notice of Allowance mailed August 24, 2004 was never received.

A review of the file finds that there was in irregularity in the correspondence address to which the Notice of Allowance was mailed. In fact, the Notice of Allowance was improperly mailed to an old correspondence address. The Office sincerely apologizes for any inconvenience to applicant.

Accordingly, the holding of Abandonment is withdrawn and the Notice of Abandonment is hereby vacated. Also, the Notice of Allowance and Issue Fee Due mailed August 24, 2004 is hereby vacated.

The petition is **GRANTED.**

Since it has been established that the Notice of Allowance was not received, it is presumed that the practitioner also failed to receive the Notice of Allowability, Examiner's amendment and Reasons for Allowance, including attachments.

The application file is being forwarded to the group technical support staff for re-mailing of the Notice of Allowance and Notice of Allowability, along with the Examiner's amendment and Reasons for Allowance including attachments, originally mailed August 24, 2004. The three (3) month non-extendable time period for paying the issue fee will be set to run from the mailing date of the new Notices.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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FEB 28 2005

OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

In re Application of :
Gregory L. Todt :
Application No. 10/079,642 : DECISION GRANTING PETITION
Filed: February 20, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 9820-000002/CPA :

This is a decision on the petition under 37 CFR 1.137(b), filed November 16, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The 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 and publication fee (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance and Fee(s) Due of April 23, 2004, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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IGOR STUKANOV
SUITE 405, 66 OAKMOUNT ROAD
TORONTO ON M6P 2M8 CA CANADA

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MAY 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Michlin et al.	:	
Application No. 10/079686	:	
Filing or 371(c) Date: 02/21/2002	:	ON PETITION
Title of Invention:	:	
COMPOSITE INTERFERENCE	:	
PULSATION DAMPENER	:	

This is a decision on the petition under 37 CFR 1.137(a), filed March 22, 2007, to revive the above-identified application.

This Petition is hereby **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.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Amendment ("Notice"), mailed September 28, 2006. The Notice required a Substitute Appeal Brief in compliance with 37 CFR 41.37, and set a one (1) month period for reply. Extensions of time were available under 37 CFR 1.136(a). Applicant filed a reply on November 3, 2006; however, the reply was unacceptable, and the appeal was dismissed. Applicant was so notified in a "Communication Re: Appeal", mailed January 25, 2007. Because the appeal was dismissed, the application became abandoned for failure to reply to the non-final office action mailed November 17, 2005, on February 18, 2006. A Notice of Abandonment was mailed January 25, 2007.

The present petition

Applicant files the present petition and asserts that they filed a corrected appeal on October 8, 2006 that was received by the USPTO in November 2006. Applicant asserts that the delay in responding to the Office communication was unavoidable because "applicants have not received any response from USPTO regarding our corrected appeal brief." Applicant's state that they received a Notice of Abandonment mailed January 25, 2007.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Applicant lacks items (**1**) and (**3**) as set forth above.

Applicable Law, Rules and MPEP

As to item (**1**), Pursuant to MPEP 711.03(c)(II)(A)(2)(c), where abandonment occurred because of the failure to file an appeal brief, the reply required pursuant to 37 CFR 1.137 must be either:

(A) an appeal brief in compliance with 37 CFR 41.37(c) and appeal brief fee;
(B) the filing of an RCE accompanied by a submission and the requisite fee in compliance with 37 CFR 1.114; or
(C) the filing of a continuing application under 37 CFR 1.53(b).

As to item (**3**), Applicant must provide a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable. In order to determine whether the delay was unavoidable, the courts have adopted a "reasonably prudent person" standard. The courts have provided that:

> [t]he word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph,

> worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "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, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[2]

The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A

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[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Analysis

Applicant here asserts that the delay in responding to the Office communication was unavoidable because "applicants have not received any response from USPTO regarding our corrected appeal brief."

As noted above, this Office mailed a Communication Re: Appeal on January 25, 2007. The Communication Re: Appeal informed Applicant that the Appeal was dismissed because "Applicant failed to file a Substitute Appeal Brief in full compliance with the new rules under 37 CFR 41.37 as mandated by the Board. " The Communication Re: Appeal informed Applicant that because of the dismissal of the appeal, the application was abandoned .

The Notice of Abandonment that Applicant's received also informed Applicants that 1) A reply was received on November 3, 2006 but it did not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection." The Notice of Abandonment, in language similar to that in the Communication Re: Appeal, also informed Applicant that "Applicant did not comply with requirement by the Board of Appeals to file a Substitute Appeal Brief in full compliance with the new rules under 37 CFR 41.37."

Applicants assert that the delay was unavoidable because of non-receipt of the Communication Re: Appeal; however, the Communication Re: Appeal only served to inform Applicants that their Appeal was dismissed because "Applicant failed to file a Substitute Appeal Brief in full compliance with the new rules under 37 CFR 41.37 as mandated by the Board. " The Communication re: Appeal did not set a new period for reply.

The relevant rule, 37 CFR 1.135, Abandonment for failure to reply within time period, states:

> (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.

The Application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Amendment ("Notice"), mailed September 28, 2006. The Communication Re: Appeal only served to inform Applicant that the application was abandoned, and why - Applicant failed

to file a Substitute Appeal Brief in full compliance with the new rules under 37 CFR 41.37 as mandated by the Board.

Applicant was in fact informed, in the Notice of Abandonment, that that the application was abandoned, and why - Applicant failed to file a Substitute Appeal Brief in full compliance with the new rules under 37 CFR 41.37 as mandated by the Board.

As such, Applicant has failed to demonstrate how the failure to receive the Communication Re: Appeal rendered the abandonment of the application unavoidable. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Conclusion

Petitioner has failed to demonstrate that the delay in filing a complete and proper reply to the Notice of Non-Compliant Amendment ("Notice"), mailed September 28, 2006, was unavoidable.

Alternate venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." 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 concerning the Appeal Brief should be directed to the examiner. Questions regarding this Decision should 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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IGOR STUKANOV
SUITE 405, 66 OAKMOUNT ROAD
TORONTO ON M6P 2M8 CA CANADA

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OCT 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Michlin et al.	:	
Application No. 10/079686	:	
Filing or 371(c) Date: 02/21/2002	:	ON PETITION
Title of Invention:	:	
COMPOSITE INTERFERENCE	:	
PULSATION DAMPENER	:	

This is a decision on the Request for Reconsideration of Petition under 37 CFR 1.137(a), filed June 7, 2007, to revive the above-identified application.

This Petition is hereby **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.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Amendment ("Notice"), mailed September 28, 2006. The Notice required a Substitute Appeal Brief in compliance with 37 CFR 41.37, and set a one (1) month period for reply. Extensions of time were available under 37 CFR 1.136(a). Applicant filed a reply on November 3, 2006; however, the reply was unacceptable, and the appeal was dismissed. Applicant was so notified in a "Communication Re: Appeal", mailed January 25, 2007. Because the appeal was dismissed, the application became abandoned for failure to reply to the non-final office action mailed November 17, 2005, on February 18, 2006. A Notice of Abandonment was mailed January 25, 2007.

The March 23, 2007 petition

Applicant filed a petition to revive the application based upon unavoidable abandonment on March 23, 2007, wherein Applicants asserted that they filed a corrected appeal on October 8,

2006 that was received by the USPTO in November 2006. Applicants asserted that the delay in responding to the Office communication was unavoidable because Applicants had not received any response from USPTO regarding our corrected appeal brief. Applicants' stated that they received a Notice of Abandonment mailed January 25, 2007.

May 9, 2007 Decision dismissing the petition

The March 23, 2007 petition was dismissed in a Decision mailed March 9, 2007. The Decision informed Applicant that, while Applicants asserted that the delay was unavoidable because of non-receipt of the Communication Re: Appeal; the Communication Re: Appeal only served to inform Applicants that their Appeal was dismissed because "Applicant failed to file a Substitute Appeal Brief in full compliance with the new rules under 37 CFR 41.37 as mandated by the Board. " The Communication re: Appeal did not set a new period for reply. (Emphasis supplied).
The Decision further stated that

> The Application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Amendment ("Notice"), mailed September 28, 2006. The Communication Re: Appeal only served to inform Applicant that the application was abandoned, and why - Applicant failed to file a Substitute Appeal Brief in full compliance with the new rules under 37 CFR 41.37 as mandated by the Board.

Decision at pp. 4-5.

The present request for reconsideration

Applicants file the present request for reconsideration and assert that a) the reasonable person standard was met by Applicant's timely replies filed with reasonable care and prudence; the common sense rule, which "says that if a one person does not receive detailed instructions from a second person to do something that the second person wants then it is unavoidable that the first person will not do this." Applicant's aver that they were told that something was wrong with their corrected appeal brief, but they never received notice and were never given a chance to correct it, therefore, it was unavoidable that they were not able to respond. Applicants' cite to In re Mattullah for support in their assertion that their Appeal Brief was abandoned without fair consideration, and it is unfair that inventor's are tasked with proving every point when examiners are not, but are allowed to use false statements.

Finally, Applicants argue that they filed the corrected documents on time on November 3, 2006, and that the reply was correct. Applicants argue that 37 CFR 1.85(a) cannot be applied to their Appeal Brief as it applies to drawings and is inapposite. Second, Applicants' state that their first appeal brief, 2005-1349, was considered a proper reply, and their corrected document was a proper reply, or a bona fide attempt at a proper reply.

Applicant asks several questions: 1) Why their initial appeal brief was accepted under 37 CFR 1.192 and only after their response to the examiner's answer were they requested to file under 37 CFR 41.37; 2) Why their corrected appeal was abandoned even though they had corrected all that they could in the appeal, and 3) Can the examiner abandon the appeal using as a ground of rejection an unrelated to appeals reason (i.e. 37 CFR 1.85(a)?

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Applicant lacks items (**1**) and (**3**) as set forth above.

Applicable Law, Rules and MPEP

As to item (**1**), Pursuant to MPEP 711.03(c)(II)(A)(2)(c), where abandonment occurred because of the failure to file an appeal brief, the reply required pursuant to 37 CFR 1.137 must be either:

(A) an appeal brief in compliance with 37 CFR 41.37(c) and appeal brief fee;
(B) the filing of an RCE accompanied by a submission and the requisite fee in compliance with 37 CFR 1.114; or
(C) the filing of a continuing application under 37 CFR 1.53(b).

As to item (**3**), Applicant must provide a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable. In order to determine whether the delay was unavoidable, the courts have adopted a "reasonably prudent person" standard. The courts have provided that:

> [t]he word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the

> unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "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, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[2]

The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable.. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

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[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Analysis

As to item (1), Applicants have not filed a reply to the Office action. The MPEP 711.03(c) states:

(c) Abandonment for Failure To File an Appeal Brief

In those situations where abandonment occurred because of the failure to file an appeal brief, the reply required pursuant to 37 CFR 1.137(a)(1) or 1.137(b)(1) must be either:

(A) an appeal brief in compliance with 37 CFR 41.37(c) and appeal brief fee;

(B) the filing of an RCE accompanied by a submission and the requisite fee in compliance with 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995 (see paragraph (d) below); or

(C) the filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).

(d) Filing an RCE as the Required Reply

For utility or plant applications abandoned for failure to reply to a final Office action or for failure to file an appeal brief, the required reply may be the filing of an RCE accompanied by a submission and the requisite fee. When an RCE is the reply filed pursuant to 37 CFR 1.137(a)(1) or 1.137(b)(1) to revive such an application, the submission accompanying the RCE must be a reply responsive within the meaning of 37 CFR 1.111 to the last Office action. Consideration of whether the submission is responsive within the meaning of 37 CFR 1.111 to the last Office action is done without factoring in the "final" status of such action. The submission may be a previously filed amendment after final or a statement that incorporates by reference the arguments in a previously filed appeal or reply brief. See MPEP § 706.07(h), paragraph II.
The petition may be granted if the submission appears to be a bona fide attempt to provide a complete reply to the last Office action. After revival of the application, the examiner may, upon a more detailed review, determine that the reply is lacking in some respect. In this limited situation, the examiner should send out a letter giving a 1-month shortened statutory period under 37 CFR 1.135(c) for correction of the error or omission. Extensions of time under 37 CFR 1.136(a) are permitted. If the applicant does not correct the omission within the time period set in the letter (including any extension), the application is again abandoned.

(e) A Continuing Application or RCE May Be Required by the Office

The Office may require the filing of a continuing application or an RCE (if the prosecution prior to abandonment was closed) (or request for further examination pursuant to 37 CFR 1.129(a)) to

meet the reply requirement of 37 CFR 1.137(a)(1) (or 37 CFR 1.137(b)(1)) where, under the circumstances of the application, treating a reply under 37 CFR 1.111 or 1.113 would place an inordinate burden on the Office. Exemplary circumstances of when treating a reply under 37 CFR 1.111 or 1.113 may place an inordinate burden on the Office are where:
(A) an application has been abandoned for an inordinate period of time;
(B) an application file contains multiple or conflicting replies to the last Office action; or

(C) the reply or replies submitted under 37 CFR 1.137(a)(1) (or 37 CFR 1.137(b)(1)) are questionable as to compliance with 37 CFR 1.111 or 1.113.

As to item (3), Applicants assert that a) the reasonable person standard was met by Applicant's timely replies filed with reasonable care and prudence; the common sense rule, which "says that if a one person does not receive detailed instructions from a second person to do something that the second person wants then it is unavoidable that the first person will not do this." Applicant's aver that they were told that something was wrong with their corrected appeal brief, but they never received notice and were never given a chance to correct it, therefore, it was unavoidable that they were not able to respond. Applicants' cite to In re Mattullath for support in their assertion that their Appeal Brief was abandoned without fair consideration, and it is unfair that inventor's are tasked with proving every point when examiners are not, but are allowed to use false statements.

Applicant is again advised that the application became abandoned, not because the reply was not timely, or not filed with care or prudence, but the reply was not in compliance with the new rules.

As to Applicants' assertion under the common sense rule; Applicant is advised that no such rule exists under Title 37 of the Code of Federal Regulations, and Applicant's are misguided in expecting this Office tell them exactly what to do in order to successfully prosecute their application. Applicant is tasked with knowledge of the patent application process. Here, Applicants have made a choice to prosecute this patent application without the assistance of counsel. Applicants are thus tasked with the responsibility of knowing the legal requirements associated with prosecuting the application. See, 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). It is Applicant's responsibility to file a complete and proper reply as the condition of the case requires. As stated in the May 9, 2007 Decision dismissing the petition:

The relevant rule, 37 CFR 1.135, Abandonment for failure to reply within time period, states:

> (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.

May 9, 2007 Decision at p.5 quoting 37 CFR 1.135.

Applicants assert that they were diligent within the meaning of In re Mattulah; however, diligence requires that Applicants' take steps to ensure the continued prosecution of their case. Applicants' failed to comply with the rules for filing the Appeal Brief in accordance with 37 CFR 41.37. Applicants cannot expect this Office to appraise them of the rules of practice. It is Applicants' responsibility to know and comply with the rules of practice.

Finally, Applicants argue that they filed the corrected documents on time on November 3, 2006, and that the reply was correct. Applicants argue that 37 CFR 1.85(a) cannot be applied to their Appeal Brief as it applies to drawings and is inapposite. Second, Applicants' state their first appeal brief, 2005-1349, was considered a proper reply, and their corrected document was a proper reply, or a bona fide attempt at a proper reply.

A review of the Notice of Non-Compliant Appeal Brief mailed September 28, 2006 reveals that the Notice does not reference 37 CFR 1.85.

As to Applicants' assertion that the first Brief was acceptable, it is noted that the Board reversed the Examiner in a Decision mailed July 18, 2005. As Applicants note, the Appeal Brief filed April 26, 2004 was filed under 37 CFR 1.192. The relevant Brief, filed January 5, 2006, did not contain the items of the brief required by 37 CFR 41.37(c)(1), as stated in the Notice of Non-Compliant Appeal Brief. Applicant may not rely upon a properly filed brief under 37 CFR 1.192, filed April 26, 2004 to support an assertion that the Appeal Brief filed January 5, 2006 was proper. The Brief, filed January 5, 2006, was not in compliance with the rules. As stated above, it is Applicants responsibility to know and comply with the rules.

Applicant asks several questions: 1) Why their initial appeal brief was accepted under 37 CFR 1.192 and only after their response to the examiner's answer were they requested to file under 37 CFR 41.37; 2) Why their corrected appeal was abandoned even though they had corrected all that they could in the appeal, and 3) Can the examiner abandon the appeal using as a ground of rejection an unrelated to appeals reason (i.e. 37 CFR 1.85(a)?

As stated above, Applicant's brief filed January 5, 2006 was not in compliance with 37 CFR 41.37(c)(1). Applicant is also advised that their "corrected" appeal was not in compliance with the rules. Even if Applicants had corrected all that they could in the appeal, Applicants did not correct all that was required. It is also noted that the reply filed on November 3, 2006 was more than 30 days after the Notice of Non-Compliant Appeal brief was mailed, and did not include any extensions of time. As such, the reply was not timely. As to the assertion that 37 CFR 1.85

was issued as a ground of rejection, as stated above, a review of the Notice of Non-compliant Appeal Brief failed to reveal that the brief was considered non-compliant under 37 CFR 1.85.

A copy of the Notice of Non-Compliant Appeal, mailed September 28, 2006, is enclosed herewith.

Finally, Applicant is advised that the statement of delay 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**.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Igor Stukinov) was ever given a power of attorney to act on behalf of inventor Vladimir Mihlin, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unavoidable delay.

Conclusion

Petitioner has failed to demonstrate that the delay in filing a complete and proper reply to the Notice of Non-Compliant Amendment ("Notice"), mailed September 28, 2006, was unavoidable. *After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner*. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Director's decision will be based solely on the administrative record in existence. Petitioner should remember that it is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to 'show' that the delay was unavoidable. Therefore, if a request

for reconsideration is filed, it must establish that the entire delay in the submission of the required reply was unavoidable.

Alternate venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

Petitioner is also reminded that an "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the signature of both inventors, or a showing that petitioner herein (Igor Stukinov) was given a power of attorney to act on behalf of inventor Vladimir Mihlin.

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 concerning the Appeal Brief should be directed to the examiner. Questions regarding this Decision 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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,686	02/21/2002	Vladimir Abramovich Michlin		6746

33895 7590 09/28/2006

IGOR STUKANOV
APT. 3,4 LAXTON AVE.
TORONTO, ON M6K 1L1
CANADA

EXAMINER

ART UNIT	PAPER NUMBER

DATE MAILED: 09/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/079,686	Applicant(s) MICHLIN ET AL.	
	Examiner Brinson, P	Art Unit 3754	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on *05 January 2006* is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file anamended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.

2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).

3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).

4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).

5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))

6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).

7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).

8. ☒ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).

9. ☒ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).

10. ☒ Other (including any explanation in support of the above items):

1. The brief does not contain the items of the brief required by 37 CFR 41.37(c)(1) under the appropriate headings and/or in the order indicated. The following sections are missing: "Summary of Claimed Subject Matter", " Grounds of Rejection to be Reviewed on Appeal", "Claims Appendix", "Evidence Appendix" and "Related Proceedings Appendix". If there are no appendices an indication of "NONE" is required.

The Board Decision mailed 7/18/05 should be listed under the Related Proceedings Appendix and a copy of the decision should be attached .

Toi Johnson
Appeal Center Manager

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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COPY MAILED

JAN 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Michlin et al.	:	
Application No. 10/079686	:	
Filing or 371(c) Date: 02/21/2002	:	ON PETITION
Title of Invention:	:	
COMPOSITE INTERFERENCE	:	
PULSATION DAMPENER	:	

This is a decision on the Request for Reconsideration of Petition under 37 CFR 1.137(b), filed November 20, 2007, to revive the above-identified application.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Amendment ("Notice"), mailed September 28, 2006. The Notice required a Substitute Appeal Brief in compliance with 37 CFR 41.37, and set a one (1) month period for reply. Extensions of time were available under 37 CFR 1.136(a). Applicant filed a reply on November 3, 2006; however, the reply was unacceptable, and the appeal was dismissed. Applicant was so notified in a "Communication Re: Appeal", mailed January 25, 2007. Because the appeal was dismissed, the application became abandoned for failure to reply to the non-final office action mailed November 17, 2005, on February 18, 2006. A Notice of Abandonment was mailed January 25, 2007.

The March 23, 2007 petition

Applicant filed a petition to revive the application based upon unavoidable abandonment on March 23, 2007, wherein Applicants asserted that they filed a corrected appeal on October 8,

2006 that was received by the USPTO in November 2006. Applicants asserted that the delay in responding to the Office communication was unavoidable because Applicants had not received any response from USPTO regarding our corrected appeal brief. Applicants' stated that they received a Notice of Abandonment mailed January 25, 2007.

May 9, 2007 Decision dismissing the petition

The March 23, 2007 petition was dismissed in a Decision mailed March 9, 2007. The Decision informed Applicant that, while Applicants asserted that the delay was unavoidable because of non-receipt of the Communication Re: Appeal; the Communication Re: Appeal only served to inform Applicants that their Appeal was dismissed because "Applicant failed to file a Substitute Appeal Brief in full compliance with the new rules under 37 CFR 41.37 as mandated by the Board. " The Communication re: Appeal did not set a new period for reply. (Emphasis supplied).
The Decision further stated that

> The Application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Amendment ("Notice"), mailed September 28, 2006. The Communication Re: Appeal only served to inform Applicant that the application was abandoned, and why - Applicant failed to file a Substitute Appeal Brief in full compliance with the new rules under 37 CFR 41.37 as mandated by the Board.

Decision at pp. 4-5.

The June 7, 2007 request for reconsideration

Applicants filed a request for reconsideration and asserted that a) the reasonable person standard was met by Applicant's timely replies filed with reasonable care and prudence; the common sense rule, which "says that if a one person does not receive detailed instructions from a second person to do something that the second person wants then it is unavoidable that the first person will not do this." Applicant's averred that they were told that something was wrong with their corrected appeal brief, but they never received notice and were never given a chance to correct it, therefore, it was unavoidable that they were not able to respond. Applicants' cite to In re Mattullah for support in their assertion that their Appeal Brief was abandoned without fair consideration, and it is unfair that inventor's are tasked with proving every point when examiners are not, but are allowed to use false statements.

Finally, Applicants argued that they filed the corrected documents on time on November 3, 2006, and that the reply was correct. Applicants argued that 37 CFR 1.85(a) cannot be applied to their Appeal Brief as it applies to drawings and is inapposite. Second, Applicants' state that their first appeal brief, 2005-1349, was considered a proper reply, and their corrected document was a proper reply, or a bona fide attempt at a proper reply.

Applicants asked several questions: 1) Why their initial appeal brief was accepted under 37 CFR 1.192 and only after their response to the examiner's answer were they requested to file under 37 CFR 41.37; 2) Why their corrected appeal was abandoned even though they had corrected all that they could in the appeal, and 3) Can the examiner abandon the appeal using as a ground of rejection an unrelated to appeals reason (i.e. 37 CFR 1.85(a)?

The October 17, 2007 Decision

The Petition was dismissed in a Decision mailed October 17, 2007. Applicant was advised that Applicants had not filed a reply to the Office action.

Applicants were further informed that the application became abandoned, not because the reply was not timely, or not filed with care or prudence, but the reply was not in compliance with the new rules.

As to Applicants' assertion under the common sense rule; Applicant was advised that no such rule exists under Title 37 of the Code of Federal Regulations, and Applicant's were misguided in expecting this Office tell them exactly what to do in order to successfully prosecute their application. Applicant was informed that it is the Applicant who is tasked with knowledge of the patent application process. Here, Applicants have made a choice to prosecute this patent. application without the assistance of counsel. Applicants are thus tasked with the responsibility of knowing the legal requirements associated with prosecuting the application. See, 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). It is Applicant's responsibility to file a complete and proper reply as the condition of the case requires. As stated in the May 9, 2007 Decision dismissing the petition:

The relevant rule, 37 CFR 1.135, Abandonment for failure to reply within time period, states:

> (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.

May 9, 2007 Decision at p.5 quoting 37 CFR 1.135.

As to Applicants assertion, that they were diligent within the meaning of In re Mattulah; Applicant was advised that diligence requires that Applicants' take steps to ensure the continued prosecution of their case. Applicants' had failed to comply with the rules for filing the Appeal Brief in accordance with 37 CFR 41.37. Applicants could not expect this Office to apprise them of the rules of practice. It is Applicants' responsibility to know and comply with the rules of practice.

Finally, Applicants argued that they filed the corrected documents on time on November 3, 2006, and that the reply was correct. Applicants argued that 37 CFR 1.85(a) cannot be applied to their Appeal Brief as it applies to drawings and is inapposite. Second, Applicants' state their first appeal brief, 2005-1349, was considered a proper reply, and their corrected document was a proper reply, or a bona fide attempt at a proper reply.

A review of the Notice of Non-Compliant Appeal Brief mailed September 28, 2006 revealed that the Notice does not reference 37 CFR 1.85.

As to Applicants' assertion that the first Brief was acceptable, it was noted that the Board reversed the Examiner in a Decision mailed July 18, 2005. As Applicants had noted, the Appeal Brief filed April 26, 2004 was filed under 37 CFR 1.192. The relevant Brief, filed January 5, 2006, did not contain the items of the brief required by 37 CFR 41.37(c)(1), as stated in the Notice of Non-Compliant Appeal Brief. Applicants were informed that they may not rely upon a properly filed brief under 37 CFR 1.192, filed April 26, 2004 to support an assertion that the Appeal Brief filed January 5, 2006 was proper. The Brief, filed January 5, 2006, was not in compliance with the rules. As stated above, it is Applicants responsibility to know and comply with the rules.

Applicant asked several questions: 1) Why their initial appeal brief was accepted under 37 CFR 1.192 and only after their response to the examiner's answer were they requested to file under 37 CFR 41.37; 2) Why their corrected appeal was abandoned even though they had corrected all that they could in the appeal, and 3) Can the examiner abandon the appeal using as a ground of rejection an unrelated to appeals reason (i.e. 37 CFR 1.85(a)?

It was reiterated that Applicant's brief filed January 5, 2006 was not in compliance with 37 CFR 41.37(c)(1). Applicant was also advised that their "corrected" appeal was not in compliance with the rules. Even if Applicants had corrected all that they could in the appeal, Applicants had not corrected all that was required. It was also noted that the reply filed on November 3, 2006 was more than 30 days after the Notice of Non-Compliant Appeal brief was mailed, and did not include any extensions of time. As such, the reply was not timely. As to the assertion that 37 CFR 1.85 was issued as a ground of rejection, as stated above, a review of the Notice of Non-compliant Appeal Brief failed to reveal that the brief was considered non-compliant under 37 CFR 1.85.

A copy of the Notice of Non-Compliant Appeal, mailed September 28, 2006, was enclosed with the Decision.

Finally, Applicant was advised that the statement of delay was not acceptable. The petition was not signed by all the inventors and the record herein failed to disclose that petitioner (Igor Stukinov) was ever given a power of attorney to act on behalf of inventor Vladimir Mihlin, or that he was an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition was considered not to contain a proper statement of unavoidable delay.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed May 2, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claims were allowed, the application became abandoned on May 2, 2006. *See* MPEP 1215.04.

The present petition

Applicant files the present petition and Appeal Brief. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Appeal Brief; (2) the petition fee; and (3) the required statement of unintentional delay have been filed with the present petition. Accordingly, the reply is accepted as having been unintentionally delayed. The Appeal is reinstated. Accord MPEP 1215.04.

The application is being referred to Technology Center Art Unit 3754 for processing of the Appeal Brief.

Telephone inquiries concerning this petition Decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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COPY MAILED

FEB 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Michlin et al.	:	
Application No. 10/079686	:	
Filing or 371(c) Date: 02/21/2002	:	DECISION VACATING
Title of Invention:	:	PRIOR DECISION AND
COMPOSITE INTERFERENCE	:	NOTICE OF ABANDONMENT
PULSATION DAMPENER	:	

This is a decision vacating a prior decision on petition mailed January 31, 2008.

The Decision on petition mailed January 31, 2008 is hereby VACATED.

The petition filed November 20, 2007 is hereby DISMISSED.

The application is **ABANDONED**.

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.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Amendment ("Notice"), mailed September 28, 2006. The Notice required a Substitute Appeal Brief in compliance with 37 CFR 41.37, and set a one (1) month period for reply. Extensions of time were available under 37 CFR 1.136(a). Applicant filed a reply on November 3, 2006; however, the reply was unacceptable, and the appeal was dismissed. Applicant was so notified in a "Communication Re: Appeal", mailed January 25, 2007. Because the appeal was dismissed, the application became abandoned for failure to reply to the non-final office action mailed November 17, 2005, on February 18, 2006. A Notice of Abandonment was mailed January 25, 2007.

The March 23, 2007 petition

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2006 that was received by the USPTO in November 2006. Applicants asserted that the delay in responding to the Office communication was unavoidable because Applicants had not received any response from USPTO regarding our corrected appeal brief. Applicants' stated that they received a Notice of Abandonment mailed January 25, 2007.

May 9, 2007 Decision dismissing the petition

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Decision at pp. 4-5.

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Applicants filed a request for reconsideration and asserted that a) the reasonable person standard was met by Applicant's timely replies filed with reasonable care and prudence; the common sense rule, which "says that if a one person does not receive detailed instructions from a second person to do something that the second person wants then it is unavoidable that the first person will not do this." Applicant's averred that they were told that something was wrong with their corrected appeal brief, but they never received notice and were never given a chance to correct it, therefore, it was unavoidable that they were not able to respond. Applicants' cite to In re Mattullah for support in their assertion that their Appeal Brief was abandoned without fair consideration, and it is unfair that inventor's are tasked with proving every point when examiners are not, but are allowed to use false statements.

Finally, Applicants argued that they filed the corrected documents on time on November 3, 2006, and that the reply was correct. Applicants argued that 37 CFR 1.85(a) cannot be applied to their Appeal Brief as it applies to drawings and is inapposite. Second, Applicants' state that their first

appeal brief, 2005-1349, was considered a proper reply, and their corrected document was a proper reply, or a bona fide attempt at a proper reply.

Applicants asked several questions: 1) Why their initial appeal brief was accepted under 37 CFR 1.192 and only after their response to the examiner's answer were they requested to file under 37 CFR 41.37; 2) Why their corrected appeal was abandoned even though they had corrected all that they could in the appeal, and 3) Can the examiner abandon the appeal using as a ground of rejection an unrelated to appeals reason (i.e. 37 CFR 1.85(a)?

The October 17, 2007 Decision

The Petition was dismissed in a Decision mailed October 17, 2007. Applicant was advised that Applicants had not filed a reply to the Office action.

Applicants were further informed that the application became abandoned, not because the reply was not timely, or not filed with care or prudence, but the reply was not in compliance with the new rules.

As to Applicants' assertion under the common sense rule; Applicant was advised that no such rule exists under Title 37 of the Code of Federal Regulations, and Applicant's were misguided in expecting this Office tell them exactly what to do in order to successfully prosecute their application. Applicant was informed that it is the Applicant who is tasked with knowledge of the patent application process. Here, Applicants have made a choice to prosecute this patent application without the assistance of counsel. Applicants are thus tasked with the responsibility of knowing the legal requirements associated with prosecuting the application. See, 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). It is Applicant's responsibility to file a complete and proper reply as the condition of the case requires. As stated in the May 9, 2007 Decision dismissing the petition:

The relevant rule, 37 CFR 1.135, Abandonment for failure to reply within time period, states:

> (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.

May 9, 2007 Decision at p.5 quoting 37 CFR 1.135.

As to Applicants assertion, that they were diligent within the meaning of In re Mattulah; Applicant was advised that diligence requires that Applicants' take steps to ensure the continued prosecution of their case. Applicants' had failed to comply with the rules for filing the Appeal Brief in accordance with 37 CFR 41.37. Applicants could not expect this Office to apprise them of the rules of practice. It is Applicants' responsibility to know and comply with the rules of practice.

Finally, Applicants argued that they filed the corrected documents on time on November 3, 2006, and that the reply was correct. Applicants argued that 37 CFR 1.85(a) cannot be applied to their Appeal Brief as it applies to drawings and is inapposite. Second, Applicants' state their first appeal brief, 2005-1349, was considered a proper reply, and their corrected document was a proper reply, or a bona fide attempt at a proper reply.

A review of the Notice of Non-Compliant Appeal Brief mailed September 28, 2006 revealed that the Notice does not reference 37 CFR 1.85.

As to Applicants' assertion that the first Brief was acceptable, it was noted that the Board reversed the Examiner in a Decision mailed July 18, 2005. As Applicants had noted, the Appeal Brief filed April 26, 2004 was filed under 37 CFR 1.192. The relevant Brief, filed January 5, 2006, did not contain the items of the brief required by 37 CFR 41.37(c)(1), as stated in the Notice of Non-Compliant Appeal Brief. Applicants were informed that they may not rely upon a properly filed brief under 37 CFR 1.192, filed April 26, 2004 to support an assertion that the Appeal Brief filed January 5, 2006 was proper. The Brief, filed January 5, 2006, was not in compliance with the rules. As stated above, it is Applicants responsibility to know and comply with the rules.

Applicant asked several questions: 1) Why their initial appeal brief was accepted under 37 CFR 1.192 and only after their response to the examiner's answer were they requested to file under 37 CFR 41.37; 2) Why their corrected appeal was abandoned even though they had corrected all that they could in the appeal, and 3) Can the examiner abandon the appeal using as a ground of rejection an unrelated to appeals reason (i.e. 37 CFR 1.85(a)?

It was reiterated that Applicant's brief filed January 5, 2006 was not in compliance with 37 CFR 41.37(c)(1). Applicant was also advised that their "corrected" appeal was not in compliance with the rules. Even if Applicants had corrected all that they could in the appeal, Applicants had not corrected all that was required. It was also noted that the reply filed on November 3, 2006 was more than 30 days after the Notice of Non-Compliant Appeal brief was mailed, and did not include any extensions of time. As such, the reply was not timely. As to the assertion that 37 CFR 1.85 was issued as a ground of rejection, as stated above, a review of the Notice of Non-compliant Appeal Brief failed to reveal that the brief was considered non-compliant under 37 CFR 1.85.

A copy of the Notice of Non-Compliant Appeal, mailed September 28, 2006, was enclosed with the Decision.

Finally, Applicant was advised that the statement of delay was not acceptable. The petition was not signed by all the inventors and the record herein failed to disclose that petitioner (Igor Stukinov) was ever given a power of attorney to act on behalf of inventor Vladimir Mihlin, or that he was an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition was considered not to contain a proper statement of unavoidable delay.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed May 2, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claims were allowed, the application became abandoned on May 2, 2006. *See* MPEP 1215.04.

The present petition (filed November 20, 2007)

Applicant files the present petition and Appeal Brief.

Applicable law

A grantable petition pursuant to this paragraph must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

As to (3), **the Examiner has reviewed the Appeal Brief and determined that he Brief is Non-Compliant**.

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 the appeal brief should be directed to the Examiner. Questions regarding this petition Decision 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

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APR 12 2007

Technology Center 2100

Kevin M. Mason
RYAN, MASON & LEWIS, LLP
1300 Post Road, Suite 205
Fairfield, CT 06824

In re Application of:
KWOK et al.
Application No. 10/079,741
Filed: February 19, 2002
For: RETRIEVING HANDWRITTEN DOCUMENTS USING MULTIPLE DOCUMENT RECOGNIZERS AND TECHNIQUES ALLOWING BOTH TYPED AND HANDWRITTEN QUERIES

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition, filed 21 February 2007, under 37 CFR § 1.181 requesting the holding of abandonment be withdrawn.

The petition is **DENIED**.

This application was held abandoned for applicant's failure to file a proper amended brief in response to the Notifications of Non-Compliant Appeal Brief mailed 21 April 2006, 23 August 2006 and 16 October 2006. A Notice of holding abandonment (PTOL 413 - Interview Summary) was mailed on 20 February 2007.

In support of the petition, petitioner asserts that (1) each response to the Notification of Non-Compliant Appeal Brief, including the Three Times Corrected Appeal Brief submitted on 16 November 2006, was filed within the set time period; (2) the Three Times Corrected Appeal Brief submitted on 16 November 2006 was in compliance with 37 CFR § 41.37(c)(1)(v) and addressed all of the examiner's comments in support of the Notification of Non-Compliant Appeal Brief; and (3) 37 CFR § 41.37(c)(1)(v) does not provide any guidance nor make any requirement regarding the length of the citations as noted by the examiner during the telephone interview on 09 February 2007.

37 CFR § 41.37(d) states:

> If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and given a time period within which to file an amended brief. If appellant does not file an amended brief within the set time period, or **files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed**. [Emphasis added.]

Pursuant to 37 CFR § 41.37(d), the appeal should have been dismissed after the first amended Brief filed 22 May 2006 had been held for non-compliance for the same reason(s) as stated in the Notification of Non-Compliant Appeal Brief mailed 21 April 2006. However, the examiner mailed out another Notification of Non-Compliant Appeal Brief on 23 August 2006 to notify applicant such a Non-Compliance Appeal Brief. Again, the second amended Brief filed 28 September 2006 failed to comply with the same requirement set forth in the two previously mailed Notifications of Non-Compliant Appeal Brief. It is well established that applicant has been given more than one opportunity to comply with the requirements as set forth in 37 CFR § 41.37(c). Further, it is pointed out that the application was in abandoned status after 19 July 2006 (this is seven months after receiving the Notice of Appeal). Thus, the appeal must be missed and the application is in a proper abandonment status. Therefore, applicant's assertion that the third amended (Three Times Corrected) Appeal Brief submitted on 16 November 2006 was in compliance with 37 CFR 41.37(c)(1)(v) and addressed all of the Examiner's comments in support of the Notification of Non-Compliant Appeal Brief is irrelevant.

For the above stated reasons, the petition is **DENIED**.

As per applicant's request, the instant petition has been forwarded to the Office of Petition to treat as a petition to revive under 37 CFR § 1.137(b).

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613.

James Dwyer, Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RYAN, MASON & LEWIS, LLP
1300 POST ROAD, SUITE 205
FAIRFIELD CT 06824

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NOV 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Thomas Yu-Kiu KWOK, et al	:	
Application No. 10/079,741	:	DECISION ON PETITION
Filed: February 19, 2002	:	
Attorney Docket No. YOR920010252US2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed October 16, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on November 3, 2007. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a corrected Appeal Brief, (2) the petition fee of $1540; and (3) the required 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 2164 for appropriate action by the Examiner in the normal course of business on the reply received May 2, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10079741 Total Records Found: 9

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
05/05/2008	00003911	4	1453	$1,540.00	05/02/2008	CC
10/12/2006	00000002	1	1251	$120.00	09/28/2006	DA 500510
02/16/2006	00000071	1	1402	$500.00	02/16/2006	DA 500510
12/20/2005	00000084	1	1401	$500.00	12/19/2005	DA 500762
12/20/2005	00000085	1	1251	$120.00	12/19/2005	DA 500762
04/30/2002	00000036	1	581	$40.00	02/19/2002	DA 500510
02/28/2002	00000137	1	101	$740.00	02/19/2002	DA 500510
02/28/2002	00000138	1	103	$306.00	02/19/2002	DA 500510
02/28/2002	00000139	1	102	$420.00	02/19/2002	DA 500510

Docket No YOR920010252US2
Confirmation Number 7574

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application

Applicant(s): Perrone et al.
Docket No.: YOR920010252US2
Serial No.: 10/079,741
Filing Date: February 19, 2002
Group: 2164
Examiner: Sathyanarayan R. Pannala

Title: Retrieving Handwritten Documents Using Multiple Document Recognizers and Techniques Allowing Both Typed and Handwritten Queries

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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

Sir:

Applicants submitted a Petition to Revive on February 21, 2007 that included a first petition based on an unavoidable standard and an alternative petition based on an unintentional standard. A Decision on Petition was mailed on April 12, 2007 indicating that the first petition was denied but would be treated as a petition to revive under the unintentional standard. Applicants have not received a decision on this second petition. Thus, Applicants are resubmitting this second petition for consideration. Applicants hereby petition for revival of this application, 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.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

1. Petition fee

There is a fee of $1,540.00 due in conjunction with the Petition. Please charge **Deposit Account No. 50-0762** the amount of $1,540.00 to cover the fee. In the event of non-payment or improper payment of a required fee, the Commissioner is authorized to charge or to credit **Deposit Account No. 50-0762** as required to correct the error.

2. Reply and/or fee

The reply and/or fee to the above-noted Notice of Non-Compliant Appeal Brief in the form of an Appeal Brief is enclosed herewith.

3. Terminal disclaimer with disclaimer fee

Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

4. An adequate showing of the cause of delay, and 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(a) was unavoidable, is listed below. The delay was unavoidable because the Notice of Appeal and Pre-Appeal Brief Request for Review was never received by Applicants.

Chronology:

02/14/06 Applicants filed an Appeal Brief with the USPTO.

04/24/06 Applicants received a Notice of Non-Compliant Appeal Brief dated April 21, 2006 (Exhibit A).

05/19/06 Applicants filed a Corrected Appeal Brief with the USPTO.

08/25/06 Applicants received a Notice of Non-Compliant Appeal Brief dated August 23, 2006 in response to the Corrected Appeal Brief filed on May 19, 2006 (Exhibit B).

09/25/06 Applicants filed a Twice Corrected Appeal Brief with the USPTO

10/18/06 Applicants received a Notice of Non-Compliant Appeal Brief dated October 16, 2006 in response to the Twice Corrected Appeal Brief filed on September 25, 2006 (Exhibit C).

11/16/06 Applicants filed a Three Times Corrected Appeal Brief with the USPTO.

01/22/07 Applicants received a Communication Re: Appeal dated January 17, 2007 indicating the Appeal in this application was dismissed (Exhibit D).

02/09/07 Applicant conducted telephone interview with Examiner. The Examiner indicated that the Three Times Corrected Appeal Brief did not overcome all the reasons for Non-Compliance because the length of the citations utilized in mapping each independent claim to the disclosure in the Summary of Claimed Subject Matter was unacceptably long. Applicants note, however, that 37 CFR 41.37 (c)(1)(v) does not provide any guidance nor make any requirements regarding the length of the citations, and note that the Examiner's comments in support of the Notice of Non-Compliance did not indicate that the length of the citations was inappropriate. Applicants made a good faith effort to respond to address the deficiencies identified in the cited Notification of Non-Compliant Appeal Brief Applicants submitted therewith a Four Times Corrected Appeal Brief that was believed to address all of the stated deficiencies and be fully compliant with 37 CFR 41.37 (c)(1)(v)

02/21/07 Applicants filed a Petition for Withdrawal of Holding of Abandonment with the USPTO. The Petition included Applicants request that in the event, the dismissal was not withdrawn, thes response be treated as a Petition for Revival of an Application for Patent Abandoned Unintentionally (Exhibit E).

04/16/07 Applicants received the Decision on Petition Under CFR 1.181 to Withdraw Holding of Abandonment dated April 12, 2007. The Decision stated the petition was Denied. The Decision also stated "[a]s per applicant's request, the instant petition has been forwarded to the Office of Petition to treat as a petition to revive under 37 CFR §1.137(b)."

05/14/07 - 03/11/08 Applicants conducted periodic status checks on PAIR to see if a decision was made on the Petition for Revival of an Application for Patent Abandoned Unintentionally There was no indication of a decision posted on Pair

03/14/08 My assistant, telephoned the USPTO to inquire about the status of the decision. She spoke with Vincent Tran who instructed her to re-submit the Petition for Withdrawal of Holding of Abandonment documents and title them "Petition to Revive"

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 1.37(b) was unintentional.

The attention of the Examiner and the Appeal Board to this matter is appreciated.

Respectfully,

Date: May 2, 2008

Kevin M. Mason
Attorney for Applicant(s)
Reg. No. 36,597
Ryan, Mason & Lewis, LLP
1300 Post Road, Suite 205
Fairfield, CT 06824
(203) 255-6560

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

RYAN, MASON & LEWIS, LLP
1300 POST ROAD
SUITE 205
FAIRFIELD, CT 06824

Mail Date: 04/21/2010

Applicant	: Thomas Yu-Kiu Kwok	: DECISION ON REQUEST FOR
Patent Number	: 7627596	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/079,741	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1966** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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OFFICE OF PETITIONS

CHARLES C.H. WU
98 DISCOVERY
IRVINE, CA 92618-3105

In re Application of	:	
William N. Paik	:	
Application No. 10/079,750	:	ON PETITION
Filed: February 22, 2002	:	
Attorney Docket No. 818-01121803	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3767 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WOODCOCK WASHBURN LLP
46TH FLOOR
ONE LIBERTY PLACE
PHILADELPHIA PA 19103

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MAR 16 2006
OFFICE OF PETITIONS

In re Application of :
Min Miles Wan et al. :
Application No. 10/079,769 : ON PETITION
Filed: February 21, 2002 :
Attorney Docket No. CC-395 :

This is a decision on the petition, filed January 9, 2006, under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

Petitioner argues that a Final Office Action was mailed November 10, 2004 which set a three month period for response. In response thereof, a Notice of Appeal was filed May 10, 2005, with a three month extension of time request. Instead of filing an Appeal Brief by July 10, 2005, on December 12, 2005, petitioners filed an RCE in response to the Notice of Appeal with a five month extension of time request. A Notice of Abandonment however, was mailed on December 15, 2005, probably before it was learned that the RCE was filed with the extension time request.

Additionally, the Notice of Abandonment notes the reason for abandonment as being that the Notice of Appeal was filed July 10, 2005 with a two month extension of time.

A search of the application file and the USPTO records reveals that in fact, the Notice of Appeal was filed with a three month extension of time and thus was timely filed on July 10, 2005 and that the RCE, amendment and five month extension of time, all with the proper fees, were timely filed on December 12, 2005 (December 10, 2005 was a Saturday).

Accordingly, the response was timely and the Notice of Abandonment mailed December 15,2005 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 3754 for processing the RCE filed December 12, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 2/21/07

TO SPE OF : ART UNIT 2155

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/079772 Patent No.: 7127512 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The correction appears directed to changing the order of inventors such that Nguyen is first named. No inventors are added or deleted by the correction.

11/28/07

SPE

2155
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 11

KARIN E. PETERKA
BUCHALTER, NEMER, FIELDS & YOUNGER
601 SOUTH FIGUEROA STREET
SUITE 2400
LOS ANGELES CA 90017-5704

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JUN 3 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Huber, Richard	:	
Application No. 10/079,779	:	ON PETITION
Filed: February 19, 2002	:	
Attorney Docket No. H2586-0009	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 2, 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 March 12, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on June 13, 2003. A Notice of Abandonment was mailed September 23, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510.00 extension of time fee submitted with the petition on February 2, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The file is being forwarded to Technology Center 1700 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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192/29 MOO 4 HANG DONG TAKILEK RD.
BAAN WAN
HANG DONG, CHIANG MAI 50230 TH THAILAND

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OFFICE OF PETITIONS

In re Application of	:	
Huber, Richard	:	
Application No. 10/079,779	:	ON PETITION
Filed: February 19, 2002	:	
Attorney Docket No. 020387-000210US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 24, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the small entity fee required by law is $810.00.

The instant petition was only accompanied with $770.00 of the requisite $810.00. An additional $40.00 is necessary for revival. No consideration on the merits can be given to the petition until the required fee is received.

Further, the instant petition appears to be on the behalf of the assignee and therefore does not comply with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A 37 CFR 3.73(b) statement is enclosed.

Petitioner is reminded that the establishment of ownership by the assignee must be submitted prior to, or at the same time as, the paper requesting or taking action is submitted. 37 CFR 3.73(c). If the submission establishing ownership is not present, the action sought to be taken will not be given effect. Accordingly, the petition for revival under 37 CFR 1.137(b) should be resubmitted with the Statement under 37 CFR 3.73(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/96 – Statement under 37 CFR 3.73(b)

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/20/2010

Applicant	: Edward G. Tiedemann JR.	: DECISION ON REQUEST FOR
Patent Number	: 7596082	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/079,782	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1364** 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
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Paper No. 3

MICHAEL ZARRABIAN
SUITE 500
1925 CENTURY PARK EAST
LOS ANGELES CA 90067

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OCT 17 2002

OFFICE OF PETITIONS

In re Application of	:
Melrose et al.	: DECISION GRANTING
Application No. 10/079,788	: PETITION
Filed: 16 February, 2002	:
Attorney Docket No. 3123-401	:

This is a decision on the petition filed on 15 April, 2002, which is treated is treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of 16 February, 2002, rather than the presently accorded filing date of 22 February, 2002.

Petitioners allege that the application was deposited in Express Mail service on 16 February, 2002. In support, on 15 April, 2002, petitioners supplied a copy of Express Mail Label No. EF106728877US (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 16 February, 2002. Additionally, a search of the USPTO's USPS Express Mail Information Database reveals that the above-identified Express Mail number was accepted on 16 February, 2002.

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 16 February, 2002.

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 16 February, 2002, and for issuance of a corrected Filing Receipt.

Thereafter, the application will be forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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AUG 0 1 2003

OFFICE OF PETITIONS

Paper No. 9

TERRY J. STALFORD, ESQ.
BAKER BOTTS L.L.P.
SUITE 600
2001 ROSS AVENUE
DALLAS TX 75201-2980

In re Application of
Robert M. Lockerd et al.
Application No. 10/079,794
Filed: February 19, 2002
Attorney Docket No. 067083.0135

ON PETITION

This is a decision on the petition, filed August 1, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 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]

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 3672 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.14

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
1300 I STREET, N.W.
WASHINGTON, DC 20005

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MAR 2 6 2003

OFFICE OF PETITIONS

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In re Application of
Johansson et al.
Application No. 10/079,807
Filed: February 22, 2002
Attorney Docket No. 7582.0005-02

: DECISION ACCORDING
: STATUS UNDER
: 37 CFR 1.47(a);
: DECISION GRANTING REQUEST
: FOR CORRECTED FILING RECEIPT

This decision concerns the September 12, 2002 "Petition under 37 CFR 1.47(a)"; and the June 4, 2002 "Request for Corrected Filing Receipt," which is being treated as a petition under 37 CFR 1.182.

The petition under 37 CFR 1.47(a) is **GRANTED.**
The petition under 37 CFR 1.182 is **GRANTED.**

Petition under 37 CFR 1.47(a)

Three inventors are named in this application: Bernth Johansson ("Johansson"), Alan J. Witten ("Witten") and Anthony J. Devaney ("Devaney"). The application upon filing did not include an oath or declaration as required by 37 CFR 1.51(b)(2) and as specified in 37 CFR 1.63. A Notice to File Missing Parts of Nonprovisional Application was mailed on April 12, 2002, giving Applicants an extendable 2-month period to submit, *inter alia*, a proper oath or declaration.[1] In response, the instant petition was filed, accompanied by a "Declaration and Power of Attorney" signed only by Witten and Devaney but not Johansson ("9/12/02 Declaration"). The petition requests that the 2 signing inventors be allowed to file this application on behalf of themselves and Johansson, for the reason that Johansson refuses to join in this application.

Under 37 CFR 1.47(a), Witten and Devaney may file this application on behalf of themselves as well as Johansson provided that a *bona fide* attempt has been made to present to Johansson, for signature, a copy of the entire application (specification including the claims; drawings), and that the latter refuses to join in this application.[2]

To show that Johansson has refused to join in this application despite such a *bona fide* attempt, the petition must include, *inter alia*, a statement of facts concerning the circumstances of the presentation of the application papers to Johansson at his last known address,[3] and his subsequent

---

[1] The other missing items were subsequently filed along with requests for extensions of time and the extension-of-time fees.

[2] See *infra* note 4.

[3] 37 CFR 1.47(a); MPEP section 409.03(e) (Aug. 2001).

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refusal.[4]

The petition contains essentially a statement of facts by counsel for Assignee, Kenneth M. Lesch ("Lesch") ("Lesch Statement"). The Lesch Statement in conjunction with the accompanying exhibits sets forth that:

-Lesch mailed a copy of the application to Johansson at his last known work address on 4 occasions: May 8, 2001; September 4, 2001; January 8, 2002; and again May 23, 2002;
-Johansson replied by facsimile on January 14, 2002 that he would not sign the papers, but did not responded since the May 23, 2002 mailing.

In view of the above, the Office concludes that Lesch had made a *bona fide* attempt to present to Johansson, for review and signature, a copy of the entire application (specification including the claims; **drawings**) before concluding that Johansson refused to join in this application. The §1.47(a) petition is thus granted.[5] The 9/12/02 Declaration is hereby accepted. The application is now complete.

The Office acknowledges receipt with the petition of the $130 petition fee and the $130 surcharge for lacking an acceptable oath/declaration upon filing of the application.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to Johansson at his last known work address provided in the petition, where Johansson appears to have no problem receiving his mail:

Bernth Johansson
Head of Research & Development
Malå Geoscience
Skolgatan 11
S-930 70 Malå
Sweden

Notice of the filing of this application will also be published in the *Official Gazette*.

---

[4] See MPEP section 409.03(d) (Aug. 2001) (Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted . . . When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts.).

[5] **The petition is granted based on the assumption that copies of the drawings were sent to Johansson along with the applications on 5/8/01, 9/4/01, 1/8/02, 5/23/02. If this is not true, counsel must inform this Office upon receipt of this decision.**

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Petition under 37 CFR 1.182

This application is a continuation of application no. 09/866,575, which in turn is a continuation of application no. 09/658,188, which claims benefit of provisional application no. 60/152,607, filed on September 8, 1999. However, the Filing Receipt mailed on April 12, 2002 mis-states the filing date for the provisional application as being September 9, 1999.

The June 4, 2002 request is thus granted, in that, the April 12, 2002 Filing Receipt is hereby withdrawn. No fee is owed.

The application file is being returned to the Office of Initial Patent Examination for further processing with respect to the 9/12/02 Declaration, and for mailing of a corrected filing receipt reflecting the correct filing date for provisional application no. 60/152,607. Thereafter, the application will be forwarded to Technology Center 3600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions
Office of the Commissioner
for Patents

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Paper No. 7

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JUL 03 2002

OFFICE OF PETITIONS

Law Offices of John Gibson Semmes
Suite 201
10220 River Road
Potomac MD 20854

In re Application of
Clarke, Nikolaev & Arepalli
Application No. 10/079,834
Filed: February 22, 2002
Attorney Docket No. USRA-SWCNT VIII
For: ANALYSIS OF ISOLATED AND PURIFIED SINGLE WALLED CARBON NANOTUBE STRUCTURES

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed April 18, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventors, Pavel Nikolaev and Sivaram D. Arepalli, have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration/statement of facts of Mark S. F. Clarke and the correspondence between Attorney Wayne M. Kennard, on behalf of the employers of non-signing inventors, and Attorney J. Gibson Semmes, on behalf of the employers of Mr. Clarke, establish that the inventors reviewed the application papers, including the specification, claims and drawings, but refused to sign the declaration. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
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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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112-3801

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JUL 15 2005

OFFICE OF PETITIONS

In re Patent No. 6,870,284	:	
Shinji Uchida	:	DECISION ON
Issue Date: March 22, 2005	:	PATENT TERM ADJUSTMENT
Application No. 10/079,846	:	AND NOTICE OF INTENT
Filed: February 22, 2002	:	TO ISSUE
Attorney Docket No. 00862.022569	:	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 17, 2005. Patentee requests that the patent term adjustment indicated on the patent be corrected from two hundred nineteen (219) to three hundred thirty-nine (339) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **three hundred thirty-nine (339) days**.

On October 20, 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 (PTA) to date was zero (0) days. On May 17, 2005, the above-identified application matured into U.S. Patent No. 6,870,284. The patent issued with a Patent Term Adjustment of two hundred nineteen (219) days. The instant request for reconsideration filed May 17, 2005, was timely filed within two months of the date the patent issued. See § 1.705(d).

Patentee states that the patent is not subject to a terminal disclaimer.

The Office determined a patent term adjustment of two hundred nineteen (219) days based on an adjustment for PTO delay of three hundred thirty-nine (339) days pursuant to 35 U.S.C. 154(b)(1)(A)(iv) and 37 C.F.R. §1.703(a)(6), reduced by applicant's delay of one hundred twenty (120) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. §1.704(c)(10). The PTO delay is not contested. The adjustment of 120 days is at issue.

The adjustment of 120 days has been found to be incorrect. In this application, a Notice of Allowability was mailed on October 20, 2003. Applicant filed a "REQUEST FOR CORRECTED NOTICE OF ALLOWABILITY" on November 5, 2003, because the Notice was silent as to claim 30. By Official Gazette Notice dated June 26, 2001, the Director has advised applicants and patentees that the filing of certain papers after the mailing of a Notice of Allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and will not result in reduction of a patent term adjustment pursuant to 37 C.F.R. §1.704(c)(10). See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance, 1247 OG 111 (June 26, 2001). A response to the examiner's reasons for allowance is specified as being a paper that is not considered to be "failure to engage". In this situation, it is concluded that the "REQUEST FOR CORRECTED NOTICE OF ALLOWABILITY" is analogous to a response to the examiner's reasons for allowance, and accordingly no reduction in PTA is warranted.

In view thereof, the correct determination of PTA at the time of issuance is three hundred thirty-nine (339) days.

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application file is being forwarded to the 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 **three hundred thirty-nine (339) 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

Enc: draft Certificate of Correction (1 page)

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Paper No: __

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OFFICE OF PETITIONS

STEVEN D. KERR, ESQ.
WOMBLE CARLYE
SANDRIDGE & RICE, PLLC
P.O. BOX 7037
ATLANTA GA 30357-0037

In re Application of	:	
Singleton	:	
Application No. 10/079,920	:	DECISION
Filing Date: 20 February, 2002	:	
Attorney Docket No. K047 1180.1	:	

This is a decision on the petition filed on 15 February, 2005, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 12 July, 2004, with response due absent extension of time on or before 12 October, 2004;

- on 21 October, 2004, Petitioner filed (with a request and fee for extension of time) an

after-final amendment, which was not a proper reply to a final Office action[1] because it did not *prima facie* place the application in condition for allowance;

- the application went abandoned after midnight 12 November, 2004;
- it appears that the Office did not mail a Notice of Abandonment before the instant petition was filed, but the Examiner also mailed an Advisory Action on 28 January, 2005;
- on 15 February, 2005, Petitioner filed the instant petition and fee, the reply in the form of a request for continued examination, fee and submission in the form of the previously submitted after-final amendment, and made the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

---

[1] The proper response to the final Office action (see: MPEP 711.03(c)) must be in the form of: (a) an amendment *prima facie* placing the application in condition for allowance; (b) a Notice of Appeal; or (c) a Continuing Application or Request for Continued Examination (RCE) (with fee and submission) under 37 C.F.R. §1.114.

[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).

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to 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] 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] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:	
George, et al.	:	
Application No. 10/079,927	:	DECISION ON PETITION
Filed: February 19, 2002	:	
Attorney Docket No. 020375-003300US	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed June 12, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed June 9, 2005. A Notice of Abandonment was mailed on May 30, 2006.

A review of the application file reveals the presence of an Amendment filed on August 22, 2005. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

The matter is being forwarded to Group Art Unit 3621 for consideration of the Amendment filed August 22, 2005.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Colleen George	: DECISION ON REQUEST FOR
Patent Number	: 7620567	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/079,927	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2291** 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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HENRICKS SLAVIN AND HOLMES LLP
SUITE 200
840 APOLLO STREET
EL SEGUNDO CA 90245

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AUG 1 6 2007

OFFICE OF PETITIONS

In re Application of
Phan et al.
Application No. 10/079,948
Filed: February 19, 2002
For: SURGICAL SYSTEM INCLUDING CLAMP AND APPARATUS FOR SECURING AN ENERGY TRANSMISSION DEVICE TO THE CLAMP AND METHOD OF CONVERTING A CLAMP INTO AN ELECTROPHYSIOLOGY DEVICE

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed March 15, 2007, requesting revival of 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 (and fee) under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

This application became abandoned for failure to pay the issue and publication fees reqiured by the Notice of Allowance mailed June 14, 2006, on or before September14, 2006. As no extensions of time could be obtained under the provisions of 37 CFR 1.136(a), the date of abandonment is September 15, 2006. A Notice of Abandonment was mailed October 19, 2006.

Petitioner, Boston Scientific (apparently a.k.a. Scimed), the assignee, asserts the delay in prosecution was unintentional in that it was never the assignee's intent to abandon this application in the absence of the licensee's agreement that it also was not interested in further prosecution. Thai is, while the assignee had decided to abandon the instant application, pursuant to a licensing agreement, assignee attempted to notify the licensee it could assume responsibility for prosecution. Petitioner further asserts that the notification was sent to an obsolete address for licensee, such that the licensee was unaware of the offer until after abandonment.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (**2**) the

petition fee required by 37 CFR 1.17(m); (**3**) an adequate 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**) in some instances, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (3) above.

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 Commissioner 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 statements in the petition there is a question whether the entire delay was unintentional on the part of the party(s) having the right to reply to the outstanding Office action. The language of both 35 USC 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"). 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 relevant inquiry in determining whether a delay is intentional is whether the course of action resulting in the delay was, as here, deliberate. See In re Maldague, 10 USPQ2d 1477 (Comm'r Pat. 1988); In re Application of G, 11 USPQ2d 1378 (Comm'r Pat. 1989); Lawman Armor v. Simon, 2005 U.S. Dist. Lexis 10843, 74 USQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005). A deliberate decision, as here, not to pursue further prosecution warrants the conclusion that the abandonment of this application was not unintentional. See Lawman, supra. Here, since the delay results from a deliberate cause of action (or inaction), it cannot be considered unintentional delay. Maldague, supra; G, supra; Lawman, supra; Field Hybrids, supra.

The question under 37 CFR 1.137(b) 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.
When the issue of revival is addressed, the focus must be on the rights of the parties as of the time of abandonment. See Kim v. Quigg, 781 F. Supp. 1280, 1284, 12 USPQ2d 1604, 1607 (E.D. Va 1989). Clearly, Scimed was the party having the right to reply or not reply.[1] Scimed determined that there was no compelling reason to pay the issue fee and obtain a patent.
As the courts have made clear, it is pointless for the USPTO to revive an abandoned–much less an intentionally abandoned-- application without an adequate showing that the delay did not result from a deliberate course of action. Maldague, supra; G, supra; Lawman, supra; Field Hybrids, supra; New York University v. Autodesk, 466 F. Supp.2d 563, 2006 U.S. Dist. LEXIS 93105, (S.D.N.Y. 2006)(same); 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) (patent held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional); Aristocrat Technologies v. International Game Technology, 2007 U.S. Dist. LEXIS 42854 (N.D. CA 2007)(USPTO misapplication of the standards of revival overturned causing patent invalidation) .

Thus, here, as here, the delay in payment of the issue fee in this case stems from the assignee's deliberate course of action: to withhold the issue and publication fees such that this application would go abandoned, revival is precluded. This application became abandoned due to the assignee's deliberate intent. As of the time of abandonment, the licensee had admittedly not received the notification and as such, could not exercise its option; it had no option to exercise. What the licensee would have done had it known of the offer, or what it intended are simply speculative and in any event immaterial to, and cannot change the nature of, the delay in this case.

Further, the licensee, or any other possible successor in title to the current assignee is bound by any intentional delay arising from that party. See Winkler v. Ladd, 221 F.Supp 550, 552, 138 USPQ 666, 668 (D.D.C. 1963); Kim v. Quigg, supra. That the licensee may have acted with dispatch after receiving the notification from the assignee is immaterial to, and does not overcome, an intentional abandonment and/or any other delay attributable to the assignee. Kim, supra; Winkler, supra. Likewise, it is immaterial to the intentional abandonment herein that the licensee was unaware of, or would not have condoned, the assignee's deliberate withholding of the issue and publication fees. Since the licensee was unaware of the assignee's deliberate delay herein until after the application had become abandoned, it obviously could not have intended to continue the prosecution by timely replying to the Notice of Allowance.

---

[1]Inspection of the oath filed June 24, 2002, reveals that the power of attorney came through the inventors, not the assignee. Further, there is no evidence that the assignee ever intervened within the meaning of 37 CFR 3.73(b) and MPEP 324 to the exclusion of the named inventors during prosecution. Nevertheless, it is clear that the named inventors acquiesced to the assignee's control of the prosecution *vel non* of this application. As such, the party having the right to reply or not reply under the circumstances of this case is the assignee (not the inventors), as correctly indicated in the petition. See MPEP 711.03(c)(II), subsection (E).

The attempt of Scimed to intervene and revoke and appoint a power of attorney filed with the petition is refused. The chain of tile according to reel 012846 frame 570 only covers the assignment from the inventors to Boston Scientific, not Boston Scientific Scimed. A complete chain of title recordation is required for a proper 3.73(b) certification. It is recommended that the USPTO 3.73(b) certification form be employed; a blank copy may be found on the USPTO web site. As a one time courtesy, a copy of this decision is being mailed to counsel who filed the petition. All future correspondence will be mailed to the address currently of record in the absence of a proper intervention by way of an adequate 3.73(b) certification showing the entire chain of title to the attempting intervenor.

Any renewed petition may be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building 401 Dulany Street
Alexandria, VA 22314:

By fax: (571) 273-8300
ATTN: Office of Petitions

Inquiries related to this decision may be made to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

cc
VISTA IP LAW GROUP LLP
12930 SARATOGA AVENUE
SUITE D-2
SARATOGA, CA 95070

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Vista IP Law Group LLP
12930 Saratoga Avenue, Suite D-2
Saratoga, CA 95070

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JUN 0 9 2008

In re Application of	:	
Huy D. Phan et al.	:	
Application No. 10/079,948	:	ON PETITION
Filed: February 19, 2002	:	
Attorney Docket No. 015916-291D	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 29, 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 above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance mailed June 14, 2006. As no extensions of time could be obtained under the provision s of 37 CFR 1.136(a), the date of abandonment is September 15, 2006. A Notice of Abandonment was mailed October 19, 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 Commissioner may require additional information. See MPEP 711.03(c)(II)(C) and (D). The renewed petition lacks item (3).

The Petition Decision mailed August 16, 2007 noted that item (3) was missing from the petition filed March 15, 2007. The details of why the statement of unintentional delay in filing of the response to the Notice of Allowance was unacceptable is set forth in the Petition Decision of August 16, 2007.

Petitioner's arguments are based upon a license agreement between assignee and a licensee. However, no such copy of this license agreement has been provided and it is thus not known what the details were in regard to further prosecution of the application should the assignee no longer desire to prosecute the application. Petitioner argues that even though the assignee was no longer interested in prosecution of the above-identified application (see paragraph 3 of the Declaration of David Burse which is included with the instant renewed petition) the license agreement allowed the licensee to take over prosecution should they so desire. A copy of that license agreement is hereby requested. Petitioner should note that complying with the request for a copy of the license agreement does not guarantee grant of the petition, the agreement is needed to determine all the facts in this particular situation. It is noted that the assignee intentionally decided to end prosecution of the application on their part. The relationship of assignee and licensee is critical in the final determination of revival of the application under 37 CFR 1.137(b).

The Power of Attorney, filed March 15, 2008 has been processed.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 6

STRADLING YOCCA CARLSON & RAUTH
IP Department
660 Newport Center, Suite 1600
P.O. Box 7680
Newport Beach, CA 92660-6441

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MAR 1 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Je-Hsiung Lan, Shawn Val Johnson and James W. Douglas	:	DECISION REFUSING STATUS
Application No. 10/079,960	:	UNDER 37 C.F.R. § 1.47(a)
Filed: February 19, 2002	:	
Title: Biometric Sensor	:	

This is in response to the "Petition under 37 C.F.R. § 1.47 Response to Missing Parts," filed October 28, 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 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

The above-identified application was filed on February 19, 2002, with an unexecuted declaration. Je-Hsiung Lan, Shawn Val Johnson and James W. Douglas were named as joint inventors. Accordingly, on April 3, 2002, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)," requiring an executed oath or declaration and a surcharge for its late filing. In addition, the Notice stated that substitute drawings in compliance with § 1.84 were required. This Notice set a two-month period for reply with extensions of time obtainable under §1.136(a).

In response, applicants filed a declaration executed by joint inventors Douglas and Voisine on behalf of themselves and on behalf of non-signing inventor Lan; the surcharge under §1.16(e); and the instant petition under § 1.47(a). This response was made timely by an accompanying petition for extension of time within the fifth month. Applicants assert that status under § 1.47(a) is proper because inventor Lan refuses to join in the application. In support thereof, applicants submitted a copy of an email communication between inventor Lan and a Mr. Howard F. Kline.

A grantable petition under 37 C.F.R. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirements (1) and (2).

As to requirement (1), petitioner has not shown that inventor Lan has refused to join in the application as required by § 1.47. Before a refusal can be alleged, applicants must demonstrate that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956). Petitioners have not provided evidence that the application papers (specification, including claims, drawings, and oath or declaration) were all presented to inventor Lan for his signature.

Thus, on renewed petition, applicants must establish that the entire application package, including specification, claims and drawings, was presented to non-signing inventor Lan and he subsequently refused to sign. If they have not already been sent, a copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the inventor is represented by counsel, to the address of the non-signing inventor's attorney. Documentary evidence, including copies of the transmittal cover letters and return mail receipts, should be made part of the record.

Furthermore, a review of the email communication purportedly showing inventor Lan's refusal to join in the application reveals a lack of a clear reference to this application. On both ends of the dialogue, reference to a '978 assignment is made.

On renewed petition, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Thus, on renewed petition, a declaration of facts from Mr. Kline or other proper party, such as the employee who presents the papers, is required.

Petitioner should also take care to eliminate any ambiguity as to whether inventor Lan is refusing to execute the declaration for this application. This can be accomplished by including a specific reference to this application in any communications requesting his signature, along with a clear indication that any papers being presented to inventor Lan are for his signature in this application.

As to requirement (2), as to inventor Johnson, the declaration contains non-initialed changes to his address information. A declaration with such changes is not acceptable. A new declaration executed by inventor Johnson, either initialed by inventor Johnson or signed by inventor Johnson with the changes incorporated is required.

It is further noted that this application is subject to abandonment. It does not appear that applicants have submitted substitute drawings as required by the Notice mailed April 3, 2002. This Notice set a two-month period for reply, with extensions of time obtainable under § 1.136(a). An extension of time was obtained on instant petition. However, if substitute drawings were not filed prior to the end of the extended period, this application became abandoned effective November 4, 2002. A petition to revive is required.

Receipt of a request for withdrawal as attorney or agent filed December 31, 2002, by Mr. Howard Kline on behalf of himself and on behalf of the attorneys associated with customer number 31278 is acknowledged. However, this withdrawal is not effective if and until it is approved.

The application file is being forwarded to the Director of Technology Center 2623 for processing of the "Request for Withdrawal as Attorney or Agent," filed December 31, 2002. Thereafter, the application file will be returned to the Office of Petitions to await petitioner's reply to this decision.

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 CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

cc: Je-Hsiung Lan
19431 Rue de Valore
Apt. 48G
Foothill Ranch, CA 92610

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 12

STRADLING YOCCA CARLSON & RAUTH
IP Department
660 Newport Center, Suite 1600
P.O. Box 7680
Newport Beach CA 92660-6441

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DEC 0 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Je-Hsiung Lan, Shawn Val Johnson,	:	
and James W. Douglas		
Application No. 10/079,960	:	ON PETITION
Filed: 19 February, 2002	:	
For: Biometric Sensor	:	

This is a decision on the petition filed on 8 September, 2003, under 37 CFR 1.137(b) to accept the unintentionally delayed reply to the decision on petition under 37 CFR 1.47(a) mailed on 10 March, 2003. This is also a decision on the petition under 37 CFR 1.48(a) filed November 22, 2000 to delete James Douglass and Shawn Val Johnson as joint inventors and add John Van Zandt as a joint inventor.

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) and 1.48(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

On 19 February, 2002, the application was filed. On 3 April, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts requiring an executed declaration, a surcharge for its late filing, and corrected drawings. On 28 October, 2002, petitioners filed a declaration naming Je-Hsing Lan, Shawn Val Johnson, and James W. Douglas as joint inventors signed by joint inventors Johnson and Douglas on behalf of themselves and non-signing joint inventor Lan, along with a petition under 37 CFR

1.47(a). The petition was dismissed 10 March, 2003, and it was noted that the application had become abandoned because the corrected drawings were not filed in a timely manner.

The present request for reconsideration was filed on 8 September, 2003, along with the corrected drawings. Petitioners now assert that Douglas and Johnson were incorrectly named as inventors and seek to delete them as joint inventors. Petitioners also seek to add John Van Zandt as a joint inventor. Petitioners have submitted statements of lack of deceptive intention by joint inventors Douglas and Johnson, a consent of the assignee, and two (2) declarations each naming Lan and Van Zandt as the sole inventor.

Petition Under 37 CFR 1.137(b)

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)).

The present petition lacks item (1). Petitioners have not

submitted a proper reply to the Notice to File Missing Parts in that a proper oath or declaration in compliance with 37 CFR 1.63 and 1.67 has not been presented. This requirement will be discussed *infra* under the section discussing the petition under 37 CFR 1.48(a).

Petition Under 37 CFR 1.48(a)

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added that the addition is necessitated by amendment of the claims and that the inventorship error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43, or 1.47;

(3) the fee set forth in 37 CFR 1.17(I); and (4) the written consent of any assignee, if any of the originally named inventors has executed an assignment; and

(4) if the application is involved in an interference, the amendment to add claims must be accompanied by a motion under 37 CFR 1.634.

The petition lacks items (1) and (2).

In regards to item (1), the petition is defective in that no statement of lack of deceptive intention has been submitted for joint inventor Van Zandt. Additionally, the statement of lack of deceptive intention signed by joint inventor Johnson miscaptions his last name. A new statement of lack of deceptive intention correctly spelling joint inventor Johnson's last name should be submitted with any renewed petition.

In regards to item (2), the declaration filed on 8 September, 2003, is not acceptable because it does not properly recite the inventive entity. Petitioners have submitted two declarations, one naming joint inventor Lan as the sole inventor and the other naming Van Zandt as the sole inventor. A declaration in compliance with 37 CFR 1.63 and 1.67 must contain the name, residence, mailing address, and citizenship of all inventors. Petitioners should submit a new declaration properly reciting the inventive entity and signed by all joint inventors.

The address listed on the petition is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition.

However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703)872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, 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

cf: Randall L. Reed
Levin Intellectual Property
384 Forest Avenue, Suite 13
Laguna Beach, CA 92651

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United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 17

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660 Newport Center, Suite 1600
P.O. Box 7680
Newport Beach CA 92660-6441

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OFFICE OF PETITIONS

In re Application of :
Je-Hsiung Lan and John Van Zandt :
Application No. 10/079,960 : ON PETITION
Filed: 19 February, 2002 :
For: Biometric Sensor :

This is a decision on the renewed petition under 37 CFR 1.137(b)[1] and 1.48(a), filed on 3 June, 2004, to accept the unintentionally delayed reply to the decision on petition under 37 CFR 1.47(a) mailed on 10 March, 2003, and to delete James Douglass and Shawn Val Johnson as joint inventors and add John Van Zandt as a joint inventor.

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The petition is **GRANTED**.

On 19 February, 2002, the application was filed. On 3 April, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts requiring an executed declaration, a surcharge for its late filing, and corrected drawings. On 28 October, 2002, petitioners filed a declaration naming Je-Hsing Lan, Shawn Val Johnson, and James W. Douglass as joint inventors signed by joint inventors Johnson and Douglass on behalf of themselves and non-signing joint inventor Lan, along with a petition under 37 CFR 1.47(a). The petition was dismissed 10 March, 2003, and it was noted that the application had become abandoned because the corrected drawings were not filed in a timely manner. On 8 September, 2003, a petition to revive under 37 CFR 1.137(b) was filed, along with a petition under 37 CFR 1.48(a) to delete James Douglass and Shawn Val Johnson as joint inventors and add John Van Zandt as a joint inventor. The petition was dismissed on 4 December, 2003, because petitioners had not provided a statement of lack of deceptive intent by Douglass and Johnson, and had not provided an oath or declaration by the actual inventors in compliance with 37 CFR 1.63 and 1.67, as required by 37 CFR 1.48(a).

The present request for reconsideration was filed on 3 June, 2004, along with a request for a four (4) month extension of time. Petitioners have now provided statements of lack of deceptive intent signed by Douglass and Johnson, and have provided a declaration naming Je-Hsiung Lan and John Van Zandt as joint inventors, signed thereby.

The petition under 37 CFR 1.137(b) is granted.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added that the addition is necessitated by amendment of the claims and that the inventorship error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43, or 1.47;

(3) the fee set forth in 37 CFR 1.17(I); and (4) the written consent of any assignee, if any of the originally named inventors has executed an assignment; and

(4) if the application is involved in an interference, the amendment to add claims must be accompanied by a motion under 37 CFR 1.634.

Additionally, as a result of papers filed on 8 September, 2003, and 3 June, 2004, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and, accordingly, this application has been corrected in compliance with 37 CFR 1.48(a)(2). The inventorship of this application has been changed by the deletion of James Douglass and Shawn Val Johnson as joint inventors and the addition of John Van Zandt, Mission Viejo, California, as a joint inventor.

A corrected Filing Receipt, setting forth the correct inventorship, is enclosed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[2] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner **must** notify the Office.

The address listed on the petition is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

---

[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

cf: Randall L. Reed
Levin & O'Connor
384 Forest Avenue, Suite 13
Laguna Beach, CA 92651

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1900 EAST 9TH STREET
CLEVELAND OH 44114

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OFFICE OF PETITIONS

In re Application of :
Herrod et al. :
Application No. 10/079,972 : ON PETITION
Filed: February 20, 2002:
Attorney Docket Number: 1304

This is a decision on the petition under 37 CFR 1.137(b), filed September 1, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of February 28, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on May 29, 2006. A Notice of Abandonment was mailed on September 6, 2006.

The statement of unintentional delay presented in the petition does not comply with the current rule. Pursuant to 37 CFR 1.137(b)(3) a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" is required. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

This Petition is hereby **Granted**.

The unintentional petition to revive fee for an other than large small entity is $1500.00. The Office is in receipt of $1370.00. Pursuant to petitioner's request, deposit account 50-1063 will be charged the $130.00 difference.

The office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This application is being forwarded to Technology Center 2100 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DIW 08-02

Paper No. 4

GREGG C. BENSON
PFIZER INC.
PATENT DEPARTMENT, MS 4159
EASTERN POINT ROAD
GROTON CT 06340

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AUG 1 2 2002

OFFICE OF PETITIONS

In re Application of	:
Harrison et al.	: DECISION GRANTING
Application No. 10/079,991	: PETITION
Filed: 19 February, 2002	:
Attorney Docket No. PC10531BRTB	:

This is a decision on the petition, filed on 26 June, 2002, requesting that the above-identified application, without drawings, be accorded a filing date of 19 February, 2002.

The application was filed on 19 February, 2002, without drawings.[1] Accordingly, on 23 April, 2002, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary. Petitioners were also advised that the statutory basic filing fee and additional claim fees were due.

In response, on 26 June, 2002 (certificate of mailing date 20 June, 2002), the present petition was filed. The petition states that the drawings are not necessary for an understanding of the subject matter sought to be patented. Petitioners request that the application, without drawings, be accorded a filing date of 19 February, 2002.

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[1] 35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[2] A review of the record reveals that Claims 1-24 and 37 are method claims. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

The petition is granted. No petition fee is due and none has been charged.

The "Notice of Incomplete Nonprovisional Application" mailed on 19 February, 2002, is hereby vacated to the extent that it stated that the application was incomplete because the application was deposited without drawings.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 19 February, 2002, and for an indication on the bib-data sheet that no sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 703.308.6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[2] MPEP 601.01(f).

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Paper No. 9

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OFFICE OF DIRECTOR
GROUP

CDREAM DISPLAY CORPORATION
6910 Santa Teresa Blvd.
San Jose, CA 95119

In re Application of:
CHANG CHUL Ha *et al.*
Serial No.: 10/080,012
Filed: February 20, 2002
Attorney Docket No. CDDC/CH/002

DECISION ON PETITION

This is a decision on the petition filed August 12, 2003, to withdraw the holding of abandonment in the above-identified application under CFR § 1.181, or in the alternative, petition to revive unintentionally or unavoidably abandoned application under 37 CFR § 1.137[1].

The petition is **DISMISSED.**

A non-final Office action was mailed on January 6, 2003. In the absence of a timely filed response, the application was abandoned by operation of law at midnight on April 6, 2003.

Petitioner does not provide any reasons why the abandonment should be withdrawn. Petitioner neither asserts that the Office action mailed on January 6, 2003, was not received nor asserts that a response was timely filed.

For the above stated reason, the petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision.

The application file is being forwarded to the Office of the Deputy Assistant Commissioner for Patent Policy & Projects, Office of Petition, for a decision on the alternative petition under 37 CFR § 1.137.

[1] The petition to withdraw the holding of abandonment under 37 CFR § 1.181 is treated herein. No petition fee is required.

Inquiries regarding this decision should be directed to Jose' G. Dees at (703) 308-4628.

Janice A Falcone

Janice A Falcone, Director
Technology Center 2800
Semiconductor, Electrical and Optical
Systems and Components

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801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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OFFICE OF PETITIONS

In re Application of	:	
Chang Chul Ha, et al.	:	
Application No. 10/080,012	:	ON PETITION
Filed: February 20, 2002	:	
Attorney Docket No. 23976-08192	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 12, 2003, 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 January 6, 2003. Accordingly, this application became abandoned on April 7, 2003. A Notice of Abandonment was mailed on July 29, 2003.

The file is being forwarded to Technology Center 2800, for review of the response, filed August 12, 2003, *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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PHILIP S. JOHNSON, ESQ.
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of	:	
Moriarty et al.	:	
Application No. 10/080,013	:	ON PETITION
Filed: 19 February, 2002	:	
Attorney Docket No. ORT-1557	:	

This a decision on the petition, filed on 7 January, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **granted**.

The application became abandoned on 23 July, 2004, for failure to timely respond to the Notice to Comply with Requirements for

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures mailed on 22 June, 2004, which set a one (1) month shortened period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioners have filed a Computer Readable Format (CRF) as well as a paper copy of the "Sequence Listing" as well as an amendment directing its entry, and a statement that the paper and CRF copies are the same and include no new matter, as required by 37 CFR 1.821(f) and 1.821(g).

The application is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Paper No. 15

VISTEON
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PO BOX 10395
CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Zheng David Lou	:	
Application No. 10/080,023	:	DECISION GRANTING
Filed: 21 February, 2002	:	PETITION
Atty Docket No. 10541-1281	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 8 March, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed nonprovisional Application No. 09/298,444, filed on 23 April, 1999.

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)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may

[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).

require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on 21 February, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after 29 November, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought.[2] Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

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[2] See 35 U.S.C. § 120.

The application is being forwarded to Technology Center Art Unit 3753 for appropriate action on the RCE and amendment filed on 8 March, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Brian Hearn, for

Charles A. Pearson
Director, Office of Petitions

Encl: Corrected Filing Receipt

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Myron McLane
49 Winter St.
Somerset, MA 02726

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OFFICE OF PETITIONS

In re Patent No. 6,761,224 :
Issue Date: July 13, 2004 :
Application No. 10/080,035 : ON PETITION
Filed: February 21, 2002 :
Patentee(s): Myron E. McLane :

This is a decision on the petition under 37 CFR 1.378(c), filed on November 13, 2008, to accept the delayed payment of a maintenance fee for the above-identified patent.

Since petitioner has demonstrated to the satisfaction of the Commissioner that the delay in timely paying the maintenance fee was unintentional, the petition under 37 CFR 1.378(c) is hereby **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

This patented file is being forwarded to Files Repository.

Telephone inquiries should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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ANDREWS KURTH LLP
1350 I STREET, N.W.
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WASHINGTON DC 20005

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MAY 27 2010

OFFICE OF PETITIONS

In re Patent of Hu et al. :
Patent No. 7,169,763 :
Issue Date: January 30, 2007 :
Application No. 10/080,043 :
Filing Date: February 22, 2002 :
Attorney Docket No. 26193-167918 (0373-0261M) :

Letter

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed January 13, 2010.

The deficiency payment of $810 is ACCEPTED.

The change of status to large entity has been entered and made of record.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent. If the person signing the instant request wishes to receive future correspondence regarding this patent, 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 who signed the instant request, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Birch, Stewart, Kolasch & Birch, LLP
PO Box 747
Falls Church, VA 22040-0747

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SAN JOSE, CA 95119

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FEB 01 2006

OFFICE OF PETITIONS

In re Application of	:	
Chang Chul Ha et al	:	
Application No. 10/080,057	:	DECISION GRANTING PETITION
Filed: February 20, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 23976-08191	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 26, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 3, 2005 as required by the Notice of Allowance and Fee(s) Due, mailed July 1, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the $750 issue fee and $300 publication fee; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

The statement claiming small entity status has been made of record and small entity status has been accorded.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

The application file is being forwarded to Publishing Division for processing into a patent.

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application	:	
Staker, et al.	:	
Application No. 10/080,064	:	PATENT TERM ADJUSTMENT
Filed: February 19, 2002	:	
Dkt. No.: 020974-10.00US	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT CORRECTION," filed April 1, 2005. This matter is being treated under 37 CFR 1.705(b) as an application for Patent Term Adjustment.

Applicants argue that the Office will have failed to issue a patent within four months from the date upon which the issue fee payment was submitted on April 28, 2003 in accordance with 37 CFR 1.702(a)(4).

Applicants are advised that decision on the instant request for reconsideration of patent term adjustment ("PTA") under 37 C.F.R. § 1.705(b) is hereby **held in abeyance** subject to an issuance date being set by the Office of Patent Publications at which time the PTA will be routinely recalculated.

Applicants are further advised to submit a letter to the Office within two months of the issuance of the patent if, at the time of issuance of the patent, the appropriate adjustment under 37 C.F.R. § 1.702(a)(4) has not been accorded.

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 0 days.

The Office acknowledges receipt of the required application fee of $200.00. No additional fee will be required if applicant is solely requesting reconsideration of additional time related to failing to issue the patent within four months of submission of issue fee payment in accordance with 37 CFR 1.702(a)(4).

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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QUARLES & BRADY LLP
ONE SOUTH CHURCH AVENUE, SUITE 1700
TUCSON AZ 85701

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MAR 12 2010

OFFICE OF PETITIONS

In re Patent No. 6,900,964	:	
Issue Date: May 31, 2005	:	
Application No. 10/080,069	:	DECISION ON PETITION
Filed: February 21, 2002	:	
Attorney Docket No. TUC920010111US1	:	

This is a decision on the petition under 37 CFR 1.378(c), filed January 7, 2010 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on June 1, 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.

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. Further, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given

on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further, it is unclear as to the intent of the document "DELEGATION TO GRANT POWERS OF ATTORNEY" submitted by Ron Lauderdale on January 7, 2010. A review of USPTO records reveals no Statement under 37 CFR 3.73(b) filed in the above-identified application. 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A 37 CFR 3.73(b) statement is enclosed.

Therefore, if petitioner's intent is to seek appointing a power of attorney the document submitted is not accepted. Further, a revocation of power of attorney with a new power of attorney and change of correspondence address is also required. Form PTO/SB/81A is enclosed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Lynne D. Anderson
333 John Carlyle Street – Suite 635
Alexandria, VA 22314

Enclosure: PTO/SB/96 – Statement under 3.73(b)
PTO/SB/81A

PTO/SB/96 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Titled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.

states that it is:

1. ☐ the assignee of the entire right, title, and interest in;

2. ☐ an assignee of less than the entire right, title, and interest in
(The extent (by percentage) of its ownership interest is _____ %); or

3. ☐ the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made)

the patent application/patent identified above, by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy therefore is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet(s).

☐ As required by 37 CFR 3.73(b)(1)(i), 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 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____ _____
Signature Date

_____ _____
Printed or Typed Name Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

PTO/SB/81A (12-08)
Approved for use through 11/30/2011. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT - POWER OF ATTORNEY OR REVOCATION OF POWER OF ATTORNEY WITH A NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS

Patent Number	
Issue Date	
First Named Inventor	
Title	
Attorney Docket Number	

I hereby revoke all previous powers of attorney given in the above-identified patent.

☐ A Power of Attorney is submitted herewith.

OR

☐ I hereby appoint Practitioner(s) associated with the following Customer Number as my/our attorney(s) or agent(s) with respect to the patent identified above, and to transact all business in the United States Patent and Trademark Office connected therewith: ☐

OR

☐ I hereby appoint Practitioner(s) named below as my/our attorney(s) or agent(s) with respect to the patent identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

Practitioner(s) Name	Registration Number

Please recognize or change the correspondence address for the above-identified patent to:

☐ The address associated with the above-mentioned Customer Number.

OR

☐ The address associated with Customer Number: ☐

OR

☐ Firm or Individual Name					
Address					
City		State		Zip	
Country					
Telephone		Email			

I am the:

☐ Inventor, having ownership of the patent.

OR

☐ Patent owner.
Statement under 37 CFR 3.73(b) (Form PTO/SB/96) submitted herewith or filed on _____.

SIGNATURE of Inventor or Patent Owner

Signature		Date	
Name		Telephone	
Title and Company			

NOTE: Signatures of all the inventors or patent owners of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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 C. SIMMONS
7993 CAVERSHAMWOOD LN.
GERMANTOWN TN 38138

COPY MAILED
MAY 0 2 2006
OFFICE OF PETITIONS

In re Application of :
Simmons :
Application No. 10/080,094 :
Filed: February 21, 2002 :
Attorney Docket No. N/A :
For: SAFE MUNITIONS WITH
ENHANCED VELOCITY

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 12, 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)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to timely reply to the non-final Office action, mailed November 24, 2004, which set an extendable three month period for reply. No extensions of time being obtained and no reply being filed, the application became abandoned on February 25, 2005. A Notice of Abandonment was mailed on June 29, 2005.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed.;

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (1) above.

Petitioner has not submitted a reply to November 24, 2004 non-final Office action. Either an amendment in response to the Office action or a continuing application would be a proper reply.

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.

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

JOHN C. SIMMONS
7993 CAVERSHAMWOOD LN.
GERMANTOWN TN 38138

COPY MAILED
OCT 13 2006
OFFICE OF PETITIONS

In re Application of
Simmons
Application No. 10/080,094
Filed: February 21, 2002
Attorney Docket No. N/A
For: SAFE MUNITIONS WITH ENHANCED VELOCITY

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed August 9, 2006 (certificate of mailing date August 2, 2006), to revive the above-identified application. The petition will be treated as a reconsideration petition under 37 CFR 1.137(b).

The petition under 37 CFR 1.137(a) is **dismissed**.

The constructive reconsideration petition under 37 CFR 1.137(b) is **granted**.

This application became abandoned for failure to timely reply to the non-final Office action, mailed November 24, 2004, which set an extendable three month period for reply. No extensions of time being obtained and no reply being filed, the application became abandoned on February 25, 2005. A Notice of Abandonment was mailed on June 29, 2005.

Applicant filed a petition under 37 CFR 1.137(b) on October 12, 2005 that was dismissed on May 2, 2006 for failure to file a reply to the November 24, 2004 non-final Office action.

The present petition was filed on August 9, 2006 (certificate of mailing date August 2, 2006). Petitioner utilized a form for revival of an application under the unavoidable standard of 37 CFR 1.137(a) and submitted $60.00 as a petition fee, according to the form. The petition fee for a petition under 37 CFR 1.137(a) is $250.00. It is noted that $60.00 is the current fee associated with the purchase of a one month extension of time. Applicant's petition under 37 CFR 1.137(b) was dismissed on May 2, 2006. Applicant was given two months to reply. After that point, extensions of time would be necessary. The present petition was filed on certificate of mailing date August 2, 2006. It follows that the $60.00 submitted with the present petition was meant to be a one month extension of time fee, rather than a Rule 137(a) petition fee.

In addition, it is noted that the explanation for the delay given in the present petition utilizes the word "unintentional".

Petitioner has not paid the $250.00 rule 137(a) petition fee. The merits of a revival petition cannot be addressed without payment of the petition fee.

The above facts, taken together, led the undersigned to the conclusion that on certificate of mailing date August 2, 2006 petitioner intended to file a reconsideration petition under 37 CFR 1.137(b), **not** a new petition under 37 CFR 1.137(a). Therefore, the undersigned will treat the present petition as a reconsideration petition under 37 CFR 1.137(b).

Applicant has submitted an amendment in reply to the November 24, 2004 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the November 24, 2004 non-final Office action, and the petition fee.[1]

The constructive reconsideration petition under 37 CFR 1.137(b) is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 3641 for consideration of the amendment filed on August 9, 2006 (certificate of mailing date August 2, 2006).

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

[1] The statement of unintentional delay presented in the petition does not comply with the current rule. 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/8/08

TO SPE OF : ART UNIT 2616 Fox, Jamal

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/080099 Patent No.: 7072290

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: The Certificate of Correction filed on 10/23/2006 is approved.

/Kwang B. Yao/
SPE

2416
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

CATALYST LAW GROUP, APC
9710 SCRANTON ROAD, SUITE S-170
SAN DIEGO CA 92121

COPY MAILED
MAY 12 2006
OFFICE OF PETITIONS

In re Application of :
Carlos F. Barbas III, et al. :
Application No. 10/080,100 :
Filed: February 21, 2002 :
Attorney Docket Number: **8098-001-US** :

ON PETITION

This is a decision on the petition filed April 26, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned November 28, 2005 for failure to timely pay the issue fee on or before November 25, 2005. Accordingly, the Notice of Abandonment was mailed April 17, 2006

The issue fee, publication fee and petition fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[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)).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 26, 2007

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/080125 Patent No.: 7106719 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans
Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE — 2616 Art Unit

HUY D. VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

OIPE IAP25
DEC 21 2006
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the **PATENT** of:	
	De et al.
Patent No.:	7,106,719
Issued:	September 12, 2006
Appln. No.:	10/080,125
Filed:	February 21, 2002
For: SINGLE USER DETECTION USER EQUIPMENT	

Our File: I-2-0173.8US

Date: December 19, 2006

REQUEST FOR CERTIFICATE OF CORRECTION

Ok to enter
RNW

Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A Certificate of Correction under 35 U.S.C. §§ 254, 255 and 37 C.F.R. §§1.322, 1.323 is requested for U.S. Patent No. 7,106,719. Correction of the following errors is requested.

ON THE FACE PAGE

At section (56), OTHER PUBLICATIONS, page 2, left column, line 2, before the word "User", delete "Sincle" and insert therefor --Single--.

At section (56), OTHER PUBLICATIONS, page 2, left column, line 3, after the words "Institution of", delete "Lectrical Engineers, FB" and insert therefor -- Electrical Engineers, GB--.

12/22/2006 HVUONG1 00000015 090435 7106719
01 FC:1811 100.00 DA

JAN - 8 2007

At section (56), OTHER PUBLICATIONS, page 2, right column, line 4, before the word "Klein,", delete "Naja" and insert therefor --Anja--.

IN THE DRAWINGS

At FIG.5, item 58, line 2, after the word "RESPONSE", delete "MATICES" and insert therefor --MATRICES--.

At FIG.6, item 68, line 2, after the word "RESPONSE", delete "MATICES" and insert therefor --MATRICES--.

IN THE SPECIFICATION

At column 1, line 5, after "10/052,943,", insert --filed on--.

At column 2, line 9, before "FFT", delete "a" and insert therefor --an--.

At column 2, line 11, before "FFT", delete "a" and insert therefor --an--.

At column 4, line 25, after the words "offset by", delete "*frax*;1;N" and insert therefor --1/N--.

At column 6, line 40, before the word "structure", delete "Toplitz" and insert therefor --Toeplitz--.

At column 7, line 26, before the word "function", delete "hermetian" and insert therefor --Hermitian--.

At column 8, line 26, before "R_{sub}", delete "b-block," and insert therefor --used, the sub-block,--.

JAN - 8 2007

At column 10, delete Equation 22, and insert therefor

--R(k+1)**d**(k+1) = $[H^H\mathbf{r}]_{k+1}$--.

At column 10, before the words "is the", delete "$[H^Hr]_{k+1}$" and insert therefor

--$[H^H\mathbf{r}]_{k+1}$--.

At column 10, line 57, after the words "components of", delete "H^Hr. d(k+1)" and insert therefor --H^H**r**. **d**(k+1)--.

At column 10, line 58, after the word "vector", delete "d_1(k+1)" and insert therefor --$\mathbf{d}_1$(k+1)--.

At column 10, delete Equation 23 and insert therefor --**d**(k+1) = $\begin{bmatrix} \mathbf{d}_1(k+1) \\ d_2(k+1) \end{bmatrix}$--.

At column 11, delete Equation 24, and insert therefor

$$\text{--R(k+1)} = \begin{bmatrix} R(k) & \vdots & E_k\mathbf{R}_k \\ \cdots & \vdots & \cdots \\ \mathbf{R}_k^H E_k & \vdots & R_o \end{bmatrix}\text{--.}$$

At column 11, line 11, after the word "that", delete "vectors" and insert therefor --vector's--.

At column 11, delete Equation 25, and insert therefor

$$\text{--}\begin{bmatrix} R(k-1) & \vdots & E_{k-1}\mathbf{R}_{k-1} \\ \cdots & \vdots & \cdots \\ \mathbf{R}_{k-1}^H E_{k-1} & \vdots & R_0 \end{bmatrix}\begin{bmatrix} \mathbf{y}_1(k) \\ y_2(k) \end{bmatrix} = -\begin{bmatrix} \mathbf{R}_{k-1} \\ R_k \end{bmatrix}\text{--.}$$

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At column 11, delete Equation 26, and insert therefor

--$\mathbf{y}_1(k) = \mathbf{y}(k-1) + y_2(k)E_{k-1}\mathbf{y}(k-1)$--.

At column 11, delete Equation 27, and insert therefor

--$y_2(k) = -\dfrac{[R_k + \mathbf{R}_{k-1}^H E_{k-1}\mathbf{y}(k-1)]}{[1+\mathbf{R}_{k-1}^H \mathbf{y}(k+1)]}$--.

At column 11, delete Equation 28, and insert therefor --$\mathbf{y}(k) = \begin{bmatrix} \mathbf{y}_1(k) \\ y_2(k) \end{bmatrix}$--.

At column 11, line 35, after the word "Using", delete "y(k), d(k+1)" and insert therefor -- $\mathbf{y}(k)$, $\mathbf{d}(k+1)$--.

At column 11, delete Equation 29 and insert therefor

--$\mathbf{d}_1(k+1) = \mathbf{d}(k) + d_2(k+1)E_k\mathbf{y}(k)$--.

At column 11, delete Equation 30 and insert therefor

--$d_2(k+1) = \left|\dfrac{(H^H\mathbf{r})_{k+1} - \mathbf{R}_k^H E_k \mathbf{d}(k)}{1+\mathbf{R}_k^H \mathbf{y}(k)}\right|$--.

At column 11, delete Equation 31 and insert therefor --$\mathbf{d}(k+1) = \begin{vmatrix} \mathbf{d}_1(k+1) \\ d_2(k+1) \end{vmatrix}$--.

At column 11, line 48, delete line 15 and insert therefor

--$(H^H\mathbf{r})_{k+1}$ is the (k+1)th element of $H^H\mathbf{r}$.--.

At column 11, line 50, before "is a solution", delete "d(N_S)" and insert therefor

--$\mathbf{d}(N_S)$--.

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At column 11, delete Equation 32, and insert therefor --$\mathbf{Rd} = \mathbf{H}^H\mathbf{r}$--.

At column 11, line 54, after the word "vector", delete "d" and insert therefor --**d**--.

At column 11, line 57, before the words "are per", delete "R_2" and insert therefor --$\mathbf{R}_2$--.

At column 11, delete Equation 33, and insert therefor

--$R(2) = \begin{bmatrix} R_0 R_1 \\ R_1 R_0 \end{bmatrix}, \mathbf{R}_2 = \begin{bmatrix} R_1 \\ R_2 \end{bmatrix}$--.

At column 12, line 13, before the words "in Equation", delete "$R_6{}^H E_6 y(k)$" and insert therefor --$\mathbf{R}_6{}^H E_6 y(k)$--.

At column 12, lines 13-14, after the word "product", delete "$R_6{}^H E_6 d(k)$" and insert therefor --$\mathbf{R}_6{}^H E_6 \mathbf{d}(k)$--.

At column 12, line 42, after the word "matrix", delete "a" and insert therefor --an--.

At column 13, delete Equation 38 and insert therefor --$R\hat{\mathbf{d}} + \mathbf{H}^H\mathbf{r}$--.

At column 13, delete Equation 39, and insert therefor --$\hat{\mathbf{d}} = R^{-1}(\mathbf{H}^H\mathbf{r})$--.

At column 13, line 49, after the word "Accordingly,", delete "$\hat{d}$" and insert therefor --$\hat{\mathbf{d}}$--.

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At column 13, delete Equation 43 and insert therefor

--$R^{-1} = \frac{1}{N_S^2} D^H \Delta^{-1}[D(H^H \mathbf{r})]$--.

At column 13, delete Equation 44 and insert therefor

--$D^H \hat{\mathbf{d}} = \frac{1}{N_S} \Delta^{-1}[F(H^H \mathbf{r})]$--.

At column 13, delete Equation 45a and insert therefor --$F(\hat{\mathbf{d}}) = \frac{F(H^H \mathbf{r})}{N_S F((R)_1)}$--.

At column 13, line 65, after the word "function.", delete "$F(H^H r)$" and insert therefor --$F(H^H \mathbf{r})$--.

At column 13, delete Equation 45b and insert therefor

--$F(H^H \mathbf{r}) = N_c[F(h_1)F(r_1) + \ldots + F(h_N)F(r_N)]$--.

At column 14, Table 4, line 16, delete "Per Burst Calculating $H^H r$" and insert therefor --Per Burst Calculating $H^H \mathbf{r}$--.

At column 14, Table 4, line 18, delete "$F^{-1}(d) \cdot N_S \log_2 N_S$" and insert therefor --$F^{-1}(\mathbf{d}) \cdot N_S \log_2 N_S$ --.

At column 14, line 27, after the word "by", delete "weighing" and insert therefor --weighting--.

At column 14, line 28, after the word "sampling", delete "r_1 is the even and r_2" and insert therefor -- $\mathbf{r}_1$ is the even and $\mathbf{r}_2$--.

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At column 14, line 29, after the words "element of", delete "r_1" and insert therefor --$\mathbf{r}_1$--.

At column 14, line 31, after the words "element of", delete "r_2" and insert therefor --$\mathbf{r}_2$--.

At column 14, line 36, after the word "matrix", delete "r_{eff}" and insert therefor --$\mathbf{r}_{eff}$--.

At column 14, delete Equation 48 and insert therefor --$\mathbf{r}_{eff} = H_{eff}\,\mathbf{d} + \mathbf{n}$--.

At column 14, delete Equation 49 and insert therefor --$F(\mathbf{d}) = \dfrac{F(\mathbf{r}_{eff})}{F((H_{eff})_1)}$--.

At column 14, line 61, after the word "modified", delete "d" and insert therefor --**d**--.

At column 14, line 62, before the words "The H", delete "$\tilde{d}$ " and insert therefor --$\tilde{\mathbf{d}}$ --.

At column 15, delete Equation 50 and insert therefor --$F(\tilde{\mathbf{d}}) = \dfrac{F(\mathbf{r})}{F((H\sim)_1)}$--.

At column 15, line 50, after the words "value from", delete "$\tilde{d}$ " and insert therefor --$\tilde{\mathbf{d}}$ --.

At column 15, line 51, after the word "codes,", delete "d" and insert therefor --**d**--.

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IN THE CLAIMS

At claim 4, column 16, line 27, after the word "determining", insert --of--.

At claim 4, column 16, lines 28-29, after the words "of a", delete "hermetian" and insert therefor --Hermitian--.

At claim 5, column 16, line 31, after the word "determining", insert --of--.

At claim 12, column 17, line 2, after the word "determining", insert --of--.

At claim 12, column 17, line 3, before the words "of a", delete "hermetian" and insert therefor --Hermitian--.

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Patentee: De et al.
Patent No.: 7,106,719

REMARKS

Patentees believe that the above errors are of such a nature as to justify the issuance of a Certificate of Correction. Patentees have enclosed a completed Certificate of Correction Form PTO/SB/44.

Since at least one of the errors was caused by Applicants, please charge the surcharge fee of $100.00 to the Deposit Account of InterDigital Communications Corporation, Deposit Account No. 09-0435.

Patentees respectfully request that the Certificate of Correction be issued.

Respectfully submitted,

De et al.

By _____
Robert D. Leonard
Registration No. 57,204
(215) 568-6400

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,106,719

APPLICATION NO.: 10/080,125

ISSUE DATE : September 12, 2006

INVENTOR(S) : De et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

ON THE FACE PAGE

At section (56), OTHER PUBLICATIONS, page 2, left column, line 2, before the word "User", delete "Sincle" and insert therefor --Single--.

At section (56), OTHER PUBLICATIONS, page 2, left column, line 3, after the words "Institution of", delete "Lectrical Engineers, FB" and insert therefor --Electrical Engineers, GB--.

At section (56), OTHER PUBLICATIONS, page 2, right column, line 4, before the word "Klein,", delete "Naja" and insert therefor --Anja--.

IN THE DRAWINGS

At FIG.5, item 58, line 2, after the word "RESPONSE", delete "MATICES" and insert therefor --MATRICES--.

At FIG.6, item 68, line 2, after the word "RESPONSE", delete "MATICES" and insert therefor --MATRICES--.

IN THE SPECIFICATION

At column 1, line 5, after "10/052,943,", insert --filed on--.

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ISSUE DATE : September 12, 2006

INVENTOR(S) : De et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

At column 2, line 9, before "FFT", delete "a" and insert therefor --an--.

At column 2, line 11, before "FFT", delete "a" and insert therefor --an--.

At column 4, line 25, after the words "offset by", delete "*frax*;1;N" and insert therefor --1/N--.

At column 6, line 40, before the word "structure", delete "Toplitz" and insert therefor --Toeplitz--.

At column 7, line 26, before the word "function", delete "hermetian" and insert therefor --Hermitian--.

At column 8, line 26, before "R_{sub}", delete "b-block," and insert therefor --used, the sub-block,--.

At column 10, delete Equation 22, and insert therefor--$R(k+1)\mathbf{d}(k+1) = [H^H\mathbf{r}]_{k+1}$--.

At column 10, before the words "is the", delete "$[H^H r]_{k+1}$" and insert therefor --$[H^H\mathbf{r}]_{k+1}$--.

At column 10, line 57, after the words "components of", delete "$H^H r.\ d(k+1)$" and insert therefor --$H^H\mathbf{r}.\ \mathbf{d}(k+1)$--.

At column 10, line 58, after the word "vector", delete "$d_1(k+1)$" and insert therefor --$\mathbf{d}_1(k+1)$--.

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INVENTOR(S) : De et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

At column 10, delete Equation 23 and insert therefor --$\mathbf{d}(k+1) = \begin{bmatrix} \mathbf{d}_1(k+1) \\ d_2(k+1) \end{bmatrix}$--.

At column 11, delete Equation 24, and insert therefor --$R(k+1) = \begin{bmatrix} R(k) & \vdots & E_k\mathbf{R}_k \\ \cdots & \vdots & \cdots \\ \mathbf{R}_k^H E_k & \vdots & R_o \end{bmatrix}$--.

At column 11, line 11, after the word "that", delete "vectors" and insert therefor --vector's--.

At column 11, delete Equation 25, and insert therefor

--$\begin{bmatrix} R(k-1) & \vdots & E_{k-1}\mathbf{R}_{k-1} \\ \cdots & \vdots & \cdots \\ \mathbf{R}_{k-1}^H E_{k-1} & \vdots & R_0 \end{bmatrix} \begin{bmatrix} \mathbf{y}_1(k) \\ y_2(k) \end{bmatrix} = -\begin{bmatrix} \mathbf{R}_{k-1} \\ R_k \end{bmatrix}$--.

At column 11, delete Equation 26, and insert therefor --$\mathbf{y}_1(k) = \mathbf{y}(k-1) + y_2(k)E_{k-1}\mathbf{y}(k-1)$--.

At column 11, delete Equation 27, and insert therefor--$y_2(k) = -\dfrac{[R_k + \mathbf{R}_{k-1}^H E_{k-1}\mathbf{y}(k-1)]}{[1+\mathbf{R}_{k-1}^H \mathbf{y}(k+1)]}$--.

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UNITED STATES PATENT AND TRADEMARK OFFICE
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PATENT NO. : 7,106,719

APPLICATION NO.: 10/080,125

ISSUE DATE : September 12, 2006

INVENTOR(S) : De et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

At column 11, delete Equation 28, and insert therefor --$\mathbf{y}(k) = \begin{bmatrix} \mathbf{y}_1(k) \\ y_2(k) \end{bmatrix}$--.

At column 11, line 35, after the word "Using", delete "y(k), d(k+1)" and insert therefor -- $\mathbf{y}(k)$, $\mathbf{d}(k+1)$--.

At column 11, delete Equation 29 and insert therefor --$\mathbf{d}_1(k+1) = \mathbf{d}(k) + d_2(k+1)E_k\mathbf{y}(k)$--.

At column 11, delete Equation 30 and insert therefor --$d_2(k+1) = \left| \frac{(H^H\mathbf{r})_{k+1} - \mathbf{R}_k^H E_k \mathbf{d}(k)}{1 + \mathbf{R}_k^H \mathbf{y}(k)} \right|$--.

At column 11, delete Equation 31 and insert therefor --$\mathbf{d}(k+1) = \begin{vmatrix} \mathbf{d}_1(k+1) \\ d_2(k+1) \end{vmatrix}$--.

At column 11, line 48, delete line 15 and insert therefor --$(H^H\mathbf{r})_{k+1}$ is the (k+1)th element of $H^H\mathbf{r}$.--.

At column 11, line 50, before "is a solution", delete "$d(N_S)$" and insert therefor --$\mathbf{d}(N_S)$--.

At column 11, delete Equation 32, and insert therefor --$R\mathbf{d} = H^H\mathbf{r}$--.

At column 11, line 54, after the word "vector", delete "d" and insert therefor --**d**--.

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PATENT NO. : 7,106,719

APPLICATION NO.: 10/080,125

ISSUE DATE : September 12, 2006

INVENTOR(S) : De et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

At column 11, line 57, before the words "are per", delete "R_2" and insert therefor --$\mathbf{R}_2$--.

At column 11, delete Equation 33, and insert therefor --$R(2) = \begin{bmatrix} R_0 R_1 \\ R_1 R_0 \end{bmatrix}, \mathbf{R}_2 = \begin{bmatrix} R_1 \\ R_2 \end{bmatrix}$--.

At column 12, line 13, before the words "in Equation", delete "$R_6{}^H E_6 y(k)$" and insert therefor --$\mathbf{R}_6{}^H E_6 y(k)$--.

At column 12, lines 13-14, after the word "product", delete "$R_6{}^H E_6 d(k)$" and insert therefor --$\mathbf{R}_6{}^H E_6 \mathbf{d}(k)$--.

At column 12, line 42, after the word "matrix", delete "a" and insert therefor --an--.

At column 13, delete Equation 38 and insert therefor --$R\hat{\mathbf{d}} + H^H \mathbf{r}$--.

At column 13, delete Equation 39, and insert therefor --$\hat{\mathbf{d}} = R^{-1}(H^H \mathbf{r})$--.

At column 13, line 49, after the word "Accordingly,", delete "$\hat{d}$" and insert therefor --$\hat{\mathbf{d}}$--.

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At column 13, delete Equation 44 and insert therefor --$D^H \hat{\mathbf{d}} = \frac{1}{N_S} \Delta^{-1}[F(H^H \mathbf{r})]$ --.

At column 13, delete Equation 45a and insert therefor --$F(\hat{\mathbf{d}}) = \frac{F(H^H \mathbf{r})}{N_S F((R)_1)}$ --.

At column 13, line 65, after the word "function.", delete "$F(H^H r)$" and insert therefor --$F(H^H \mathbf{r})$--.

At column 13, delete Equation 45b and insert therefor
--$F(H^H \mathbf{r}) = N_c[F(h_1)F(r_1) + \ldots + F(h_N)F(r_N)]$--.

At column 14, Table 4, line 16, delete "Per Burst Calculating $H^H r$" and insert therefor
--Per Burst Calculating $H^H \mathbf{r}$--.

At column 14, Table 4, line 18, delete "$F^{-1}(d) \cdot N_S \log_2 N_S$" and insert therefor
--$F^{-1}(\mathbf{d}) \cdot N_S \log_2 N_S$ --.

At column 14, line 27, after the word "by", delete "weighing" and insert therefor --weighting--.

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,106,719

APPLICATION NO.: 10/080,125

ISSUE DATE : September 12, 2006

INVENTOR(S) : De et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

At column 14, line 28, after the word "sampling", delete "r_1 is the even and r_2" and insert therefor -- $\mathbf{r}_1$ is the even and $\mathbf{r}_2$--.

At column 14, line 29, after the words "element of", delete "r_1" and insert therefor --$\mathbf{r}_1$--.

At column 14, line 31, after the words "element of", delete "r_2" and insert therefor --$\mathbf{r}_2$--.

At column 14, line 36, after the word "matrix", delete "r_{eff}" and insert therefor --$\mathbf{r}_{eff}$--.

At column 14, delete Equation 48 and insert therefor --$\mathbf{r}_{eff} = H_{eff}\,\mathbf{d} + \mathbf{n}$--.

At column 14, delete Equation 49 and insert therefor --$F(\mathbf{d}) = \dfrac{F(\mathbf{r}_{eff})}{F((H_{eff})_1)}$--.

At column 14, line 61, after the word "modified", delete "d" and insert therefor --$\mathbf{d}$--.

At column 14, line 62, before the words "The H", delete "$\tilde{d}$ " and insert therefor --$\tilde{\mathbf{d}}$ --.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Volpe and Koenig, P.C.
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103

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.

JAN - 8 2007.

PTO/SB/44 (04-05)
Approved for use through 04/30/2007.
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,106,719

APPLICATION NO.: 10/080,125

ISSUE DATE : September 12, 2006

INVENTOR(S) : De et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

At column 15, delete Equation 50 and insert therefor --$F(\tilde{\mathbf{d}}) = \dfrac{F(\mathbf{r})}{F((H\sim)_1)}$--.

At column 15, line 50, after the words "value from", delete "$\tilde{d}$" and insert therefor --$\tilde{\mathbf{d}}$--.

At column 15, line 51, after the word "codes,", delete "d" and insert therefor --**d**--.

IN THE CLAIMS

At claim 4, column 16, line 27, after the word "determining", insert --of--.

At claim 4, column 16, lines 28-29, after the words "of a", delete "hermetian" and insert therefor --Hermitian--.

At claim 5, column 16, line 31, after the word "determining", insert --of--.

At claim 12, column 17, line 2, after the word "determining", insert --of--.

At claim 12, column 17, line 3, before the words "of a", delete "hermetian" and insert therefor --Hermitian--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Volpe and Koenig, P.C.
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103

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.

JAN - 8 2007.

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B. CRAIG KILLOGH
885 ISLAND PARK DRIVE (29492)
P.O. DRAWER H
CHARLESTON, SC 29402

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FEB 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Barbara Wagner et al	:	
Application No. 10/080,147	:	DECISION GRANTING PETITION
Filed: February 19, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 321.045/US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 16, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of September 16, 2003, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1774.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

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OFFICE OF PETITIONS

In re Application of	:	
Olaf Jose F. Hirsch et al	:	
Application No. 10/080,156	:	ON PETITION
Filed: February 19, 2002	:	
Attorney Docket No. US 028003	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 21, 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 March 3, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 4, 2006.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2616 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 08 2006

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

In re Application of: POLAND, MCKEE ET AL. Serial No.: 10/080,160 Filed: August 27, 2001 Docket: US 020034 Title: PORTABLE 3D ULTRASOUND SYSTEM	DECISION ON PETITION TO WITHDRAW ABANDONMENT UNDER MPEP 711.03(C)

This is a decision on the petition filed on September 28, 2005 to withdraw the holding of abandonment on August 24, 2005.

The petition is **dismissed as moot**.

In his September 28, 2005 the applicant requested the withdrawal the holding of abandonment on August 24, 2005. In support of his petition, the applicant argues that the incorrectly labeled May 7, 2004 Office Action Summary led to a mishandling of the applicant's response to said Office Action that ultimately resulted in a holding of abandonment.

The record shows that:

1) On May 7, 2004 the examiner mailed a final Office Action rejecting all claims. Although the body of the Office Action made clear that the Office Action was final, Box 2b-"This action is non-final" was mistakenly checked in the Office Action Summary.
2) Sometime after May 7, 2004, the Office Action of May 7, 2004 was scanned into the Image File Wrapper such that both Box 2a-"This action is FINAL" and Box 2b-"This action is non-final" were checked on the Summary.
3) On August 12, 2004 the applicant submitted an amendment in response to the mailed May 7, 2004 Office Action which included amended claims.
4) On February 8, 2005 the examiner issued an Advisory Action stating that the amendment would not be entered because it raised new issues.
5) On August 24, 2005 a notice of abandonment was sent for failure to reply to the February 8, 2005 advisory action.
6) On September 28, 2005 the applicant filed the present petition. Specifically, the applicant alleges that the holding of abandonment should be withdrawn because the incorrectly

labeled May 7, 2004 Office Action Summary created to a confusing situation which led the applicant to respond inappropriately to said Office Action.

7) Also on September 28, 2005 the applicant filed a Request for Continued Examination.
8) On June 7, 2006 the examiner allowed the application in light of the September 28, 2005 RCE.

Analysis

The body of the Office Action mailed May 7, 2004 explained that the Office Action was final, but the attached Office Action Summary only had Box 2a-"This action is non-final" checked. However, the May 7, 2004 Office Action that was scanned into the IFW had both Box 2a-"This action is FINAL" and Box 2b-"This action is non-final" checked. Such discrepancy was not explained and communicated to the applicant.

In light of the discrepancy between the mailed Office Action Summary, the mailed Office Action body, and the scanned Office Action Summary, the May 7, 2004 Office Action shall not be treated as final. Accordingly, the August 12, 2004 amendment shall be entered as a matter of right since it is considered a response to a non-final action.

Under MPEP 711.03(a) in regard to previously held unresponsive amendments, a primary examiner "may reverse his or her holding as to whether or not an amendment received during such period was responsive and act on an application of such character which he or she has previously held abandoned. This is not a revival of an abandoned application but merely a holding that the application was never abandoned." The February 8, 2005 Advisory Action shall therefore be vacated because the previous rejection is now treated as non-final.

Additionally, the prosecution did not close with the mailing of the May 7, 2004 Office Action. Under 37 CFR 1.114 an RCE may only be filed when prosecution is closed. As a result, the RCE filed on September 28, 2005 was unnecessary since prosecution never closed.

Finally, the examiner decided on June 7, 2006 subsequent to the filing of the RCE that the August 12, 2004 amendment placed the application in condition for allowance. The application, therefore, should be allowed if the examiner still finds the application in condition for allowance.

Summary

The May 7, 2004 Office Action shall be treated as non-final. The August 12, 2004 amendment shall be entered as a matter of right, and the February 8, 2005 Advisory Action is now vacated. The September 28, 2005 RCE was unnecessary. Finally, if the application is still allowable, a new Notice of Allowance will be sent in due course.

In light of the above analysis, the petition to withdraw abandonment is dismissed as moot.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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MAR 03 2004

OFFICE OF PETITIONS

In re Application of
Cole
Application No. 10/080,170
Filed: February 22, 2002
For: COMPARATIVE MYCOBACTERIAL GENOMICS AS A TOOL FOR IDENTIFYING TARGETS FOR THE DIAGNOSIS, PROPHYLAXIS OR TREATMENT OF MYCOBACTERIOSES
Attorney Docket No: 03495-0218-00000
Pub. No.: US 2003/0129601 A1
Pub. Date: July 10, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on August 7, 2003 for the above-identified application.

The request is granted-in-part.

The corrected patent application publication will be published in due course and will only include corrections for errors made by the Office.

A patent application publication is based on the application papers as originally filed, according to 37 CFR 1.215(a), which says the following, in part:

> (a) . . . The patent application publication will be based upon the application papers deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application . . . The patent application publication will not include any amendments, including preliminary amendments, unless applicant supplies a copy of the application containing the amendment pursuant to paragraph (c) of this section.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request also includes mistakes that are not the fault of the Office, which will not be corrected by a corrected publication made by the Office.

The errors not mentioned below will be corrected as requested by applicant.

Page, 19, table 2, Description column, line 10 "(ENBL: AF14372)" will be corrected to "(EMBL: AF143772)", not "(EMBL: AF1437772)" as requested by applicant, as that is on page 43 of the specification as originally filed.

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The following material error alleged by applicant will not be corrected, as they are not apparent from the Office record:

Page, 15, table 2, M. leprae column, line 22"ML0383" **will not** be changed as that was initially filed on page 39 of the specification.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), should be submitted via the EFS system and any question or 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

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

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Commissioner for Patents
United States Patent and Trademark Office
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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Stewart T. Cole	:	
Application No. 10/080,170	:	DECISION ON PETITION
Filed: February 22, 2002	:	TO WITHDRAW
Attorney Docket No. 03495-0218-00000	:	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 24, 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 Katz on behalf of herself.

All other attorney/agents remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed February 21, 2008 that requires a reply from applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

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Paper No.

FRISHAUF, HOLTZ, GOODMAN &
CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

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APR 25 2007
OFFICE OF PETITIONS

In re Patent No. 7,157,442	:	DECISION ON
Hotoda et al.	:	REQUEST FOR RECONSIDERATION
Issue Date: January 2, 2007	:	OF
Application No. 10/080,191	:	PATENT TERM ADJUSTMENT
Filed: February 19, 2002	:	and
Atty Docket No. 02017C/HG	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN AN ISSUED PATENT (37 CFR § 1.705(d))," filed January 23, 2007. Patentees request that the patent term adjustment indicated in the patent be corrected from seven hundred ten (710) days to seven hundred eighty-one (781) days.

The request for reconsideration of patent term adjustment is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of seven hundred eighty-one (781) days.

On January 2, 2007, the above-identified application matured into U.S. Patent No. 7,157,442, with a revised patent term adjustment of 710 days. On January 23, 2007, patentees 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 781 days. Patentees

dispute the reduction of 71 days associated with the filing on July 27, 2005, of an Information Disclosure Statement after the mailing of the notice of allowance. Patentees assert that the paper filed on that date was a request for acknowledgment of an IDS filed November 6, 2003 and that no reduction is warranted. In addition, patentees state that the other paper filed on July 27, 2005, was a COMMENTS ON THE NOTICE OF ALLOWABILITY, and thus, no reduction was warranted for that.

Patentees' arguments and evidence have been considered, and found persuasive. A review of the record reveals that the 71-day reduction is associated with the filing on July 27, 2005 of a 1449 for the purpose of requesting an initialed IDS for an IDS filed prior to the mailing of the notice of allowance. Under the circumstances the filing on July 27, 2005 of the 1449 should not be considered "a failure to engage in reasonable efforts" to conclude processing or examination of an application and should not result in reduction of the patent term adjustment pursuant to 37 CFR 1.704(c)(10). The Notice of Allowance, the first Office communication after the filing of the IDS, did not reference this IDS. The Communication filed July 27, 2005, requesting the IDS be initialed was the first opportunity by applicants to address the matter. Thus, the reduction of 71 days associated with the filing of this paper is not warranted.

It is specifically noted that as stated in MPEP 2732 the submission of 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" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application. Accordingly, no reduction was entered, or should have been entered, for the COMMENTS ON THE NOTICE OF ALLOWABILITY filed July 27, 2005.

In view thereof, the patent should have issued with a patent term adjustment of 781 days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. 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 SEVEN HUNDRED EIGHTY-ONE **(781)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,157,442 B2

DATED : January 2, 2007

INVENTOR(S) : Hotoda et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (710) days

Delete the phrase "by 710" and insert – by 781 days--

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NOV 16 2006
OFFICE OF PETITIONS

ATTN: RUSSEL H. MARVIN
TORRINGTON RESEARCH COMPANY
89 COMMERCIAL BOULEVARD
TORRINGTON CT 06790

In re Application of
John F. O'Connor Jr., et al.
Application No. 10/080,200
Filed: February 19, 2002
Attorney Docket No. 3135-18

ON PETITION

This is a decision on the petition, filed September 19, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on July 15, 2006, for failure to file a timely response to the Office communication (notification of non-responsive but *bona fide* amendment) filed on June 14, 2005, which set a one (1) month period for reply. A one month from the mailing of the Office communication mailed August 9, 2004. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained, accordingly, a Notice of Abandonment was mailed on March 16, 2006.

The application is being forwarded to Technology Center 3745 for consideration of the response filed September 19, 2006 and for further examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 4/27/05

TO SPE OF : ART UNIT 1761

SUBJECT : Request for Certificate of Correction on Patent No.: 6782802 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:

SPE

1761
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : US 6,782,802 B2

DATED : August 31, 2004

INVENTOR(S) : Thomas Hunot, Michael Lee Huegerich, Frank J. Ricchio

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Title Page, Col. 1, Line 6
Replace "**Frank P. Ricchio**"
With --**Frank J. Ricchio**--

Title Page, Col. 1, Line 9
Replace "**Star Manufacturing International**"
with –**Star Manufacturing International Inc.**--

Title Page, Col. 2, Line 17
Replace "**Brochre**"
With –**Brochure**--

Col. 14, Line 26
Replace "**F.**"
with --**F**--

Col. 14, Line 29
Replace "**F.**"
with --**F**--

Col. 15, Line 65
Replace "**166'** "
with –**164'**--

Col. 17, Line 41
Replace "**mourned**"
with –**mounted**--

Col. 20, Line 48
Replace "**thereto** "
with –**thereto**;--

Col. 21, Line 1
Replace "**housings**"
with –**housing**--

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 possess) 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: 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.

MAR 1 6 2005

Col. 21, Line 8
Replace "**vein**"
with **–wherein—**

Col. 25, Line 50
Replace "**24**"
with **–34--** 29

Col. 26, Line 35
Replace "**member**"
with **–members--**

Col. 26, Line 63
Replace "**sealing**"
with **–grill--**

Col. 28, Line 60
Replace "**drive;**"
with **–drive chain;--**

MAILING ADDRESS OF SENDER:
David H. Chervitz
Polster, Lieder, Woodruff & Lucchesi, L.C.
12412 Powerscourt Drive, Suite 200
St. Louis, MO 63131

PATENT NO. 6,782,802 B2

No. of additional copies

David H. Chervitz, Reg. No. 32,820

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 possess) 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 submtiting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

MAR 1 6 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 5

Bernard Vining
6419 South Troy Street
Chicago, IL 60629

COPY MAILED

JAN 21 2004

OFFICE OF PETITIONS

In re Application of :
Vining :
Application No. 10/080,260 :
Filed: February 21, 2002 :
For: SMOKE DETECTOR WITH RF RESET SWITCH :

ON PETITION

This is a decision on the petition filed December 29, 2003, which is being treated as a petition under 37 CFR 1.181 (no fee) to withdraw the holding of abandonment of the above-identified application.

The petition is **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 To Withdraw the Holding of Abandonment." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed March 19, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 19, 2002. A Notice of Abandonment was mailed on December 3, 2003.

Petitioner contends that the Notice of Missing Parts was never received.

In the absence of any irregularity in the mailing of the Office action, there is a strong presumption that the Office action was properly mailed and received. In order to overcome this presumption, a petition alleging non-receipt of an Office action must:
(1) include a statement that the Office action was not received,
(2) attest that a search of the file jacket, or location where the paper would have been place, has been made, and
(3) include any additional information which may be required by the Commissioner.
See MPEP 711.03(c)(II).

Petitioner should discuss how was processed when received during March of 2002. Did petitioner directly handle all mail? Has all mail related to the instant application been kept in one location? If yes, has a search of that location been made? Petitioner should fully discuss the handling of all mail to show that it is more likely than not the mail was lost prior to receipt rather than lost after being received by petitioner.

A review of the declaration filed with the petition reveals that petitioner lists his country of residence as "Cook." It appears that petitioner may have read the word "country" as the world "county." Petitioner should complete and submit the attached declaration using the correct address.

Anytime a signed declaration is submitted after filing an application, rather than at the same time, a fee of $65 must be paid. Any request for reconsideration should be accompanied by $65.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Declaration 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

Paper No. 8

Bernard Vining
6419 South Troy Street
Chicago, IL 60629

COPY MAILED

MAR 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Vining :
Application No. 10/080,260 :
Filed: February 21, 2002 :
For: Smoke Detector With RF Reset Switch :

ON PETITION

This is a decision in response to the papers filed February 23, 2004, which is being treated as a petition under 37 CFR 1.181 (no fee) to withdraw the holding of abandonment of the above-identified application.

The petition is **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 To Withdraw the Holding of Abandonment."

A previous petition was filed on December 29, 2003. A decision was mailed on January 21, 2004.

The petition discussed several things which needed to be supplied.

The $65 surcharge for a late filed declaration:

Petitioner has submitted the $65 surcharge.

A proper declaration:

The decision stated,

> A review of the declaration filed with the petition reveals that petitioner lists his country of residence as "Cook." It appears that petitioner may have read the word "country" as the world "county." Petitioner should complete and submit the attached declaration using the correct address.

The newly submitted declaration continues to list petitioner's country as "Cook" even though petitioner lives in the United States. Petitioner should correctly complete the attached declaration.

Evidence to establish non-receipt of the Notice to File Missing Parts mailed March 19, 2002:

Petitioner has failed to provide any of the requested evidence. Petitioner should closely read the following discussion and respond accordingly.

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 19, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 19, 2002. A Notice of Abandonment was mailed on December 3, 2003.

Petitioner contends that the Notice of Missing Parts was never received.

In the absence of any irregularity in the mailing of the Office action, there is a strong presumption that the Office action was properly mailed and received. In order to overcome this presumption, a petition alleging non-receipt of an Office action must:
(1) include a statement that the Office action was not received,
(2) attest that a search of the file jacket, or location where the paper would have been place, has been made, and
(3) include any additional information which may be required by the Commissioner.
See MPEP 711.03(c)(II).

Petitioner should discuss how was processed when received during March of 2002. Did petitioner directly handle all mail? Has all mail related to the instant application been kept in one location? If yes, has a search of that location been made? Petitioner should fully discuss the handling of all mail to show that it is more likely than not the mail was lost prior to receipt rather than lost after being received by petitioner.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Declaration 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

Paper No. 9

Bernard Vining
6419 South Troy Street
Chicago, IL 60629

COPY MAILED

APR 0 5 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Vining :
Application No. 10/080,260 :
Filed: February 21, 2002 :
For: Smoke Detector With RF Reset Switch :

This is a decision in response to the paper filed March 23, 2004, which is being treated as a petition under 37 CFR 1.181 (no fee) to withdraw the holding of abandonment of the above-identified application.

The petition is **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 To Withdraw the Holding of Abandonment."

A previous petition was filed on December 29, 2003. A decision was mailed on January 21, 2004. A renewed petition was filed on February 23, 2004. A decision dismissing the petition was mailed on March 2, 2004. The prior decisions discussed several things which needed to be supplied. Petitioner has supplied the $65 surcharge and a proper declaration in compliance with the decisions. However, petitioner has not filed a proper showing of non-receipt of the Notice to File Missing Parts.

Evidence to establish non-receipt of the Notice to File Missing Parts mailed March 19, 2002:

Petitioner has failed to provide any of the requested evidence. Petitioner should closely read the following discussion and respond accordingly.

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 19, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. Accordingly, the above-identified application became abandoned on May 19, 2002. A Notice of Abandonment was mailed on December 3, 2003.

Petitioner contends that the Notice of Missing Parts was never received.

In the absence of any irregularity in the mailing of the Office action, there is a strong presumption that the Office action was properly mailed and received. In order to overcome this presumption, a petition alleging non-receipt of an Office action must:
(1) include a statement that the Office action was not received,
(2) attest that a search of the file jacket, or location where the paper would have been place, has been made, and
(3) include any additional information which may be required by the Commissioner.

Petitioner should discuss how was processed when received during March of 2002. Did petitioner directly handle all mail? Has all mail related to the instant application been kept in one location? If yes, has a search of that location been made? Petitioner should fully discuss the handling of all mail to show that it is more likely than not the mail was lost prior to receipt rather than lost after being received by petitioner.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 13

Bernard Vining
6419 South Troy Street
Chicago, IL 60629

COPY MAILED

MAY 17 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Vining :
Application No. 10/080,260 :
Filed: February 21, 2002 :
For: Smoke Detector With RF Reset Switch :

This is a decision in response to the paper filed May 10, 2004, which is being treated as a renewed petition under 37 CFR 1.181 (no fee) to withdraw the holding of abandonment of 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 19, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 19, 2002. A Notice of Abandonment was mailed on December 3, 2003.

Petitioner contends that the Notice of Missing Parts was never received. Petitioner has provided a sufficient showing to demonstrate non-receipt of the Notice.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

10/080 270

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/28/07

TO SPE OF : ART UNIT 3635

SUBJECT : Request for Certificate of Correction on Patent No.: 6805396

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

RICHARD E. CHILCOT, JR.
SUPERVISORY PATENT EXAMINER
SPE

3635
Art Unit

SPE M. Yu

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/080,283

Paper No.: _____

DATE : 6/23/05

TO SPE OF : ART UNIT 3728

SUBJECT : Request for Certificate of Correction on Patent No.: 6802423

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

In addition to the correct spec. and oath for this application, the spec and oath for application 10/080,268 were also included and scaned in edan for this application. No priority was claimed for this application. EDAN should be corrected to remove incorrect spec/oath and to match the removed spec/oath with application 10/08,268.

SPE _____ Art Unit 3728

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TRASKBRITT, P.C.
P. O. BOX 2550
SALT LAKE CITY, UT 84110-2550

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OCT 26 2004

OFFICE OF PETITIONS

In re Application of :
James LeVoy Sorenson, et al. :
Application No. 10/080,292 :
Filed: February 21, 2002 :
Attorney Docket No. 1950-4762.1US :

ON PETITION

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BAKER & HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE., N.W.
WASHINGTON, DC 20036-5304

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JUN 29 2005

OFFICE OF PETITIONS

In re Application of :
William C. Pittman :
Application No. 10/080,322 : ON PETITION
Filed: February 19, 2002 :
Attorney Docket No. 56235.1001 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 11, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the Office action mailed September 29, 2003, which set a one (1) month period for reply. Accordingly, this application became abandoned on October 30, 2003. A Notice of Abandonment was mailed on March 31, 2004.

The file is being forwarded to Technology Center 3700, for review of the response, submitted February 11, 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/Patent
United States Patent and trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jenell Lawson Intellectual Property
Curagen Corporation
555 Long Wharf Drive
New Haven, CT 06557

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JUL 12 2006
OFFICE OF PETITIONS

In re Application of	:	
Pena et al.	:	DECISION ON PETITION
Application No. 10/080,334	:	
Filed: 02/21/2002	:	
Attorney Docket No. 21402-275 (CURA 575)	:	

This is in response to the "REQUEST TO CORRECT INVENTORSHIP UNDER 37 CFR 1.48(a) AND 1.48(b); REQUEST TO ACCEPT SIGNATURES UNDER 35 USC 118; PETITION TO ACCEPT SIGNATURES UNDER 37 CFR 1.47; and REVOCATION AND GRANT OF NEW POWERS OF ATTORNEY," filed on March 4, 2005. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

The Office notes that a change in the inventorship is considered an "amendment" by applicant after allowance, which must comply with 37 CFR 1.312. *See* MPEP 714.16. Pursuant to 37 CFR 1.312, applicant must file the amendment on or before the date the issue fee is paid. In the present application, the record reveals that applicant submitted the amendment after payment of the issue fee on February 15, 2005.

Accordingly, the petition is **dismissed** as inappropriate.

To effectuate the correction of the inventorship prior to the application issuing as a patent, applicant must submit a petition under 37 CFR 1.313(c)(2), a RCE, and the requisite fees. Additionally, applicant must file a petition under 37 CFR 1.48(a),[1] accompanied by the items omitted from the present petition as follows: (1) a statement from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part,[2] and (2) a oath or declaration in compliance with 37 CFR 1.63, indicating only the name of the actual inventor, Raymond J. Taupier, and signed by him.

[1] Applicant is not required to pay any additional fee for the filing of the petition under 37 CFR 1.48.

[2] Applicant cannot change the name of Stacie J. Casman to Stacie J. Navara without a petition under 37 CFR 1.182 to change the name and a $400.00 petition fee. In the alternative, applicant should refer to the individual as Stacie J. Casman.

If applicant is unable to obtain a statement from each person being deleted as an inventor, applicant must file a petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.48(a)(2) and pay a $400.00 petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision 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
www.uspto.gov

WORKMAN NYDEGGER
(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

COPY MAILED

FEB 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Phillip Y. Goldman	:	
Application No. 10/080,347	:	DECISION GRANTING PETITION
Filed: February 21, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 15578.1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 8, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of corrected drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowability of May 14, 2004, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Lawrence A. Lynn, D.O.
1275 Kinear Road
Columbus, OH 43212

COPY MAILED

AUG 27 2007

OFFICE OF PETITIONS

In re Application of :
Lawrence A. Lynn, et. al. :
Application No. 10/080,387 : ON PETITION
Filed: February 25, 2002 :
Attorney Docket No. 1131-68 :

This is a decision on the petition under 37 CFR 1.137(b), filed on April 2, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely file a proper reply to the final Office action mailed July 17, 2006.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee required by 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (3) above.

The statement of unintentional delay cannot be accepted since the instant petition appears to be signed by the assignee of record. 37 CFR 1.33(b) states:

> Amendments and other papers filed in the application must be signed by:
>
> (1) An attorney or agent of record appointed in compliance with § 1.34(b);
>
> (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
>
> (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
>
> (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an

interest, if there is an assignee of record of an undivided part interest; or

(5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

If the instant petition is signed or submitted on behalf of the assignee, the assignee must comply with the requirements of 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank Statement under 37 CFR 3.73(b) can be found on the USPTO website (PTO/SB/96).

The Office acknowledges receipt of $395 for the Request for Continued Examination under 37 CFR 1.114, and $510 for a three (3) month extension of time filed on April 2, 2007. 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 $510 extension of time was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is **not** a final agency decision.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By Fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Lawrence A. Lynn, D.O.
1275 Kinear Road
Columbus, OH 43212

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JUN 13 2008

OFFICE OF PETITIONS

In re Application of :
Lawrence A. Lynn, et. al. :
Application No. 10/080,387 : ON PETITION
Filed: February 25, 2002 :
Attorney Docket No. 1131-68 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on September 10, 2007, to revive the above-identified application.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and submission under 37 CFR 1.114 with the $395 filing fee; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The correspondence address given on the original petition filed April 2, 2007 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.

There is no indication that a reply to the non-final Office action of September 14, 2007 has been filed. Accordingly, a shortened statutory period of three (3) months for reply to the non-final Office action of September 14, 2007 is restarted with the mailing date of this decision. Extensions of time pursuant to the provisions of 37 CFR 1.136(a) are permitted. Failure to timely reply within the period restarted by this decision will result in the abandonment of this application.

This application is being forwarded to Technology Center Art Unit 3772 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Lawrence A. Lynn
1275 Olentangy River Road, Suite 10
Columbus, OH 43212

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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DW 02-04

Paper No. 10

SAWYER LAW GROUP LLP
P O BOX 51418
PALO ALTO CA 94303

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FEB 20 2004
OFFICE OF PETITIONS

In re Application of :
Shi et al. :
Application No. 10/080,396 : ON PETITION
Filed: 22 February, 2002 :
Attorney Docket No. RR1724/2344P :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 4 November, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 24 January, 2003, for failure to timely respond to the non-final Office action mailed on 23 October, 2002, which set a three (3) month shortened

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 10 September, 2003.

The application is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY, MI 48007

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NOV 16 2007

OFFICE OF PETITIONS

In re Application of
Tulip Shah
Application No. 10/080,423
Filed: February 22, 2002
Attorney Docket No. DP-307007/DE3-0276

ON PETITION

This is a decision in response to the petition, filed February 8, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed March 9, 2006. A Notice of Abandonment was mailed on November 27, 2006. On February 8, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being referred to Technology Center AU 2161 for consideration of the amendment filed February 8, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MARISA DUBUC
CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

Kyocera Wireless Corp.
Attn: Patent Department
PO Box 928289
San Diego CA 92192-8289

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SEP 1 2 2006
OFFICE OF PETITIONS

In re Patent of	:	
Curtiss, et al.	:	
Patent No. 7,024,230	:	
Issue Date: April 4, 2006	:	Decision on Petition
Application No. 10/080,425	:	
Filing Date: February 22, 2002	:	
Attorney Docket No. UTL 00179	:	

This is a decision on the petition under 37 CFR § 1.183, filed April 25, 2006 (certificate of mailing date April 19, 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 a completed certificate of correction and a $100.00 certificate of correction fee are both missing from the application file. 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.

Shirene Willis Brantley

Shirene Willis Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kyocera Wireless Corp.
Attn: Patent Department
PO Box 928289
San Diego CA 92192-8289

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DEC 1 8 2006
OFFICE OF PETITIONS

In re Patent of	:	
Curtiss, et al.	:	
Patent No. 7,024,230	:	
Issue Date: April 4, 2006	:	Decision on Petition
Application No. 10/080,425	:	
Filing Date: February 22, 2002	:	
Attorney Docket No. UTL 00179	:	

This is a decision on the reconsideration request under 37 CFR 3.81 to accept the correction of the assignee data. The reconsideration request was filed on October 19, 2006.

The request under 37 CFR 3.81 is **dismissed**.

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 a completed certificate of correction has not been filed. Please complete the enclosed blank Certificate of Correction form (PTO/SB/44) with the requested changes and return it.

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.

Shirene Willis Brantley

Shirene Willis Brantley
Petitions Attorney
Office of Petitions

enclosure: blank Certificate of Correction form (PTO/SB/44)

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

Page _____ of _____

PATENT NO. :

APPLICATION NO.:

ISSUE DATE :

INVENTOR(S) :

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

MAILING ADDRESS OF SENDER (Please do not use customer number below):

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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United States Patent and Trademark Office
P.O. Box 1450
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Kyocera Wireless Corp.
Attn: Patent Department
PO Box 928289
San Diego CA 92192-8289

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MAY 21 2007

OFFICE OF PETITIONS

Patent No. 7,024,230	:	
Issued: April 4, 2006	:	
Application No. 10/080,425	:	DECISION ON PETITION
Filed: February 22, 2002	:	
Attorney Docket No. UTL 00179	:	

This is a decision on the request under 37 CFR 3.81(b), filed January 12, 2007, to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is Kyocera Wireless Corp. and that an incorrect assignee name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). The required $100.00 certificate of correction fee will be charged to 50-3001. Further, Office assignment records reflect that Kyocera Wireless Corp. is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3230. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6640874	2003-11-04	10080426	2002-02-22	AMCOR-002-DIV3

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	/Ralph E. Jocke/	Date (YYYY-MM-DD)	2008-01-16
Name	Ralph E. Jocke	Registration Number	31029

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. 6640874
Issue Date: November 4,2003
Application No. 10080426
Filed: February 22,2002
Attorney Docket No. AMCOR-002 DIV3

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed January 22,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 22,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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OCT 2 4 2006

OFFICE OF PETITIONS

In re Application of	:	
ERLANDER, et al.	:	
Application No. 10/080,435	:	DECISION ON PETITION
Filed: February 22, 2002	:	TO WITHDRAW
Attorney Docket No. 485772003300	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 19, 2006.

The request is **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 Kawai Lau on behalf of all attorneys of record who are associated with customer No. 20350. All attorneys/agents associated with the Customer Number 20350 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.

A Review of the file discloses that a non-final Office action was mailed on March 16, 2006, which set forth a three month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) were available. To date, there is no indication that a reply to the Office action of March 16, 2006 has been received.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucei
Petitions Examiner
Office of Petitions

cc: Mark G. Erlander
44 Hillcrest Drive
Encinitas, CA 92024

cc: Molecular Devices Corporation
1311 Orleans Drive
Sunnyvale, CA 94089

UNITED STATES PATENT AND TRADEMARK OFFICE

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12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

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OCT 26 2004

OFFICE OF PETITIONS

In re Application of :
Kaburlasos et al. : DECISION ON PETITON
Application No. 10/080,473 :
Filed: February 22, 2002 :
Attorney Docket No. 42390P13497 :

This is in response to the petition under 37 CFR 1.47(a), filed July 30, 2002 (certificate of mailing date July 22, 2002). Applicants obtained a two-month extension of time. Accordingly, the petition is timely filed. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office apologizes for any inconvenience.

The petition is **dismissed**.

Applicants are 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 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 22, 2002, without an executed oath or declaration. Accordingly, on March 21, 2002, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing.

In response, on July 30, 2002 (certificate of mailing date July 22, 2002), applicants filed the present petition, a declaration signed by two of the three joint inventors, and paid the necessary fees.

In the Statement of Facts, Eric King indicated that an introductory letter, a declaration/power of attorney, and an assignment were mailed to Vaishali Nikhade at his last known address on two occasions. However, Mr. Nikhade did not contact the applicants.

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. Applicants lack items (1) and (2) as set forth above.

As to item (1), Mr. King stated that an introductory letter, a declaration/power of attorney, and an assignment were mailed to the nonsigning inventor. It is unclear from the record whether Mr. Nikhade was presented with the complete application papers. Unless Mr. Nikhade was presented with a complete copy of the application papers, including the specification, claims and drawings, he could not attest that he has "reviewed and understands the application papers," and therefore, could not sign the declaration that he was given. Accordingly, applicants failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). To show that the inventor has refused to join in the application, applicants must show that a complete copy of the application papers, including the specification, claims and drawings, was presented to Mr. Nikhade, personally or through his designated representative, and that he did not respond to the request that he sign the declaration.

As to item (2), applicants failed to submit an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64. The declaration does not identify the country of citizenship of inventor Nikhade. The Office notes that the oath or declaration must identify the country of citizenship of each inventor. See 37 CFR 1.63(a)(3).

Accordingly, to correct the deficiencies, applicants must submit a declaration in compliance with 37 CFR 1.63 and 1.67, which identifies the entire inventive entity and the mailing address and citizenship of each inventor and is signed by the signing inventors on behalf of the nonsigning inventor, Mr. Nikhade.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney:**

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
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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Seventh Floor
Los Angeles, CA 90025-1030

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OCT 26 2004

OFFICE OF PETITIONS

In re Application of :
Kaburlasos et al. : DECISION ON PETITON
Application No. 10/080,473 :
Filed: February 22, 2002 :
Attorney Docket No. 42390P13497 :

This is a decision on the petition under 37 CFR 1.59(b), filed October 22, 2003, to expunge information unintentionally submitted in the above-identified application.

In the present petition, applicants request that the Office expunge "Exhibit A" (Intel Employee Agreement) submitted in support of applicants' petition under 37 CFR 1.47. Specifically, applicants request that the Office expunge and return the copy of the Intel Employee Agreement because it was unintentionally submitted with an inventor's social security number at the bottom of the page. In the alternative, applicants ask that the Office redact the social security number from the paper.

The Office notes that the above-identified application is an Image File Wrapper, an electronic version of the patent application. The Office will expunge the document by "closing" the document in the electronic format because it is not a necessary element for a petition under 37 CFR 1.47(a).

Accordingly, the petition is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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DEC 0 1 2004

OFFICE OF PETITIONS

In re Application of Karburlasos et al. Application No. 10/080,473 Filed: February 22, 2002 Attorney Docket No. 42390P23497 For: INTEGRATED ADJUSTABLE SHORT-HAUL/LONG-HAUL TIME DOMAIN REFLECTOMETRY	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed November 19, 2004.

The petition is granted.

Petitioner has shown that Vaishali Nikhade, 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 Eric T. King established that the inventor was mailed 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 the Office of Patent Publications.

Telephone inquiries regarding 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
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Alexandria, VA 22313-1450
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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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DEC 20 2006
OFFICE OF PETITIONS

In re Application of :
Jeffrey L. Cleland et al. :
Application No. 10/080,502 : ON PETITION
Filed: February 22, 2002 :
Attorney Docket No.: 10466/286 :

This is a decision on the petition filed November 28, 2006 to withdraw the holding of abandonment for the above-identified application. The petition is being treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned on August 7, 2006, for failure to timely submit a timely response to the non-Final Office Action mailed May 4, 2006, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed November 16, 2006.

Petitioner asserts that a response was filed and, in support, petitioner has submitted, *inter alia*, a copy of the response in the form of an amendment, a three month extension of time request and a post card receipt date stamped November 6, 2006 by the USPTO.

A search of the application file and the USPTO records reveals that in fact, an amendment was filed on November 6, 2006. Accordingly, the Notice of Abandonment mailed November 16, 2006 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter will be referred to Technology Center 1615 for appropriate action on the amendment filed November 6, 2006, a copy of which was submitted upon petition.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of :
Robert I. Higuchi et al. :
Application No. 10/080,503 :
Filed: February 22, 2002 :
Attorney Docket No. **18202-018001/1082** :

DECISION ON PETITION
UNDER § 1.183

This is a decision on the petition, filed November 30, 2006 and supplemented December 26, 2006, under 37 CFR 1.47(a), which is being treated under 37 CFR § 1.183 for acceptance of a supplemental declaration without the inclusion of the signatures of all inventors as required by §§ 37 CFR 1.67 and 1.63.[1]

The petition is **GRANTED**.

All of the joint inventors, signed the original declaration for patent filed in this application, pursuant to § 1.63(d), However, joint inventor Thomas R. Caferro lined through the address on the printed declaration and printed his then-current address, but inadvertently failed to initial and date the changes on the declaration. Thus, a substitute declaration was required by the Notice of Allowability mailed August 31, 2006 to correct the defect. All joint inventors except Thompson, Caferro, Cummings and Edwards have executed the supplemental declaration.

Petitioners assert that after diligent search, inventors Caferro and Thompson cannot be located and that by their actions, inventors Cummings and Edwards refuse to execute the declaration. The evidence provided shows that the supplemental declaration was sent to all joint inventors but that the packages sent to Caferro and Thompson were returned by the U.S. Postal Service. Additional efforts although employed to locate Caferro and Thompson were unsuccessful. With respect to joint inventors Cummings and Edwards, proof of delivery is shown but to date, neither has returned an executed supplemental declaration. Additionally, the statements made by the attorney of record Frank J. Miskiel, have been reviewed and found adequate to make sufficient petitioner's showing that waiver of the requirement for inventors Caferro, Thompson,

[1]Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration or to provide all information is a waiver of 37 CFR 1.67 and 1.63. See MPEP 603.

Cummings and Edward's signatures on the supplemental declaration is warranted.

The petition includes the last known addresss of all non-signing inventors and a fee in the amount of $200.00 for the petition. Petitioners are advised however that the fee for a petition under 37 CFR 1.183 is set at $400.00. Therein, petitioner's deposit account no. 06-1050 has been charged in the amount of $200.00 to make up the difference between that paid and that which is due.

The supplemental declaration has been reviewed and found in compliance with §§ 1.67 and 1.63. In view of the foregoing, it is concluded that waiver of the requirement that the supplemental declaration be signed by joint inventors Thompson, Caferro, Cummings and Edwards is appropriate.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **September 13, 2007**

TO SPE OF : ART UNIT **1623**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/080503** Patent No.: **7214690 B2**

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

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: Applicant's submission of amendments to the claims is noted, but there is no correspondence between claims 40 and claims 58 when the submitted amendment after final is compared with the proposed amendment. Resubmission with appropriate corrections is respectfully requested.

9/18/07
(S. Anna Jiang) 1623
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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September 27, 2007

Stephanie Seidman
FISH & RICHARDSON P.C.
P. O. Box 1022
Minneapolis, MN 55440-1022

Patent No: 7,214,690 B2
Application No: 10/080503
Applicant: Robert I Higuchi, et al.
Issued: May 8, 2007
Title: **TRICYCLIC QUINOLINONE AND TRICYCLIC QUINOLINE ANDROGEN RECEPTOR MODULATOR COMPOUNDS AND METHODS**

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 and or 1.323.

Applicant's submission of amendments to the claims is noted, but there is no correspondence between claims 40 and claims 58 when submitted amendment after final is compared with the proposed amendment. Per examiner "resubmission with appropriate corrections is respectfully requested".

In view of the foregoing, your request in this matter hereby denied.

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 11/5/07

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/680523 Patent No: 7214690B2

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.

- XXXX ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The C of C has been approved.

/S. A. Jiang/ — **SPE**

1623 — **Art Unit**

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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FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

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DEC 2 0 2007

OFFICE OF PETITIONS

In re Application of Jonathan Shekter Application No. 10/080,525 Filed: February 21, 2002 Attorney Docket No. 07844-499001 / P463	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 19, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 30, 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 Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2628 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment and Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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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37 CFR 1.313(c)(2) Grant.doc

FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS, MN 55440-1022

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JUN 06 2008

OFFICE OF PETITIONS

In re Application of	:	
SHEKTER, Jonathan	:	
Application No. 10/080,525	:	DECISION GRANTING PETITION
Filed: February 21, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **07844-499001/P463**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 5, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 18, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2628 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090806

DATE : March 03, 2009

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction on Patent No.: 7453459B2

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:

In regard to claims 8, 9, 14, 29, 32 and 34-39 the respective changes are approved. In regard to claim 21 the changes made to column 14 lines 22, 24 and 31 are approved, however, the change made to column 14 line 33 is not approved as said change constitute a change in scope. In regard to claim 28 the respective change is not approved as said change constitute a change in scope. It is noted that the change made to column 16 line 4 is indicated by the Applicant as belonging to claim 32 however said change in fact belongs to claim 33.

/KEE M TUNG/
Supervisory Patent Examiner.Art Unit 2628

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 112404

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

FEB - 8 2005

In re Application of:	:	
DAVID P. ROSSUM	:	
Serial No.: 10/080,527	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: February 21, 2002	:	
Attorney Docket No.: **6407P049**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed October 04, 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 Tarek N. Fahmi, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed to Schwegman, Lundberg, Woessner & Kluth, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
121 SOUTH EIGHTH STREET, SUITE 1600
MINNEAPOLIS, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

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DEC 1 1 2006

OFFICE OF PETITIONS

In re Patent No. 7,071,202	:	DECISION ON REQUEST
Redkar et a.	:	FOR RECONSIDERATION OF
Application No. 10/080,530	:	PATENT TERM ADJUSTMENT
Filed: February 21, 2002	:	and
Atty Docket No. 12636-267	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT AND APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705" filed August 3, 2006. Patentees request that seventeen days of patent term be restored (such that the patent term adjustment indicated in the patent would be corrected from one hundred seventy-six (176) to one hundred ninety-three (193) 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 one hundred ninety-two (192) days.

On July 4, 2006, the above-identified application matured into U.S. Patent No. 7,071,202. The instant request for reconsideration filed August 3, 2006 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 176 Patentees dispute the reduction of 120 days pursuant to § 1.704(c)(10) for the filing of an amendment and terminal disclaimer on February 24, 2006. Patentees state that the Office responded to this paper on June 7, 2006, and thus, the period of reduction, pursuant to 1.704(c)(10), is 103 days for

the period beginning on February 24, 2006 and ending on June 7, 2006.

A review of the record confirms that the terminal disclaimer was a part of the amendment. Further, the Office did mail a response to the amendment under § 1.312 on June 7, 2006. However, the period of reduction is 104 days for the period beginning on February 24, 2006 and ending on June 7, 2006. As stated in MPEP 2731,

> When a period is indicated (in 37 CFR 1.703 or 1.704) as "beginning" on a particular day, that day is included in the period, in that such day is "day one" of the period and not "day zero." For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length.

Thus, including February 24, 2006 in the period, the number of days is 104 days, not 103 days, for applicant delay.

In view thereof, the patent term adjustment indicated on the patent should have been one hundred ninety-two **(192)** days.

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 23-2415, as authorized. 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 ninety-two **(192)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,071,202 B2

DATED : July 4, 2006

INVENTOR(S) : Redkar et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (176) days

Delete the phrase "by 176" and insert – by 192 days--

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COMMISSIONER FOR PATENTS
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Paper No. 11

TOWNSEND AND TOWNSEND AND CREW LLP
Two Embarcadero Center
Eighth floor
San Francisco, CA 94111-3834

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APR 05 2004

Technology Center 2100

In re Application of:
Jack Elias SEITNER
Application No. 10/080,560
Filed: February 25, 2002
For: ANALOG SCRAMBLER

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed March 18, 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: Mark J. Itri, Esq.
McDERMOTT, WILL & EMERY
18191 Von Karman Avenue
Suite 400
Irvine, CA 92612

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#16

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JUL 07 2004

TECHNOLOGY CENTER 2100

Paper No. 16

Andrew D. Mickelsen
McDermott, Will & Emery
18191 Von Karman Avenue
Suite 400
Irvine, CA 92612

In re Application of:
Jack SEITNER
Application No. 10/080,560
Filed: February 25, 2002
For: ANALOG SCRAMBLER

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed 10 May 2004, requesting the grant of special status based on M.P.E.P. §708.02, Section VIII.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d), states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR §1.17(i);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR §1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicant's 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 accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (703) 305-9750.

7/7/04 for

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

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P.O. Box 1450
Alexandria, VA 22313-1450
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NOV - 1 2004

Paper No. 9

In re Application of	:	
Yoshihiko Aikawa	:	
Application No. 10/080,570	:	DECISION ON PETITION
Filed: February 25, 2002	:	
Attorney Docket No D-1238	:	

This is a decision on the petition filed by facsimile transmission on August 18, 2004, by which petitioner requests withdrawal of holding that this application stands abandoned for failure to file a proper and timely reply to the Office letter dated September 11, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that a timely and proper reply to the Office letter in question was in fact filed on December 8, 2003. Petitioner has supported this allegation by furnishing a copy of the reply, and a copy of a post card receipt for the reply that shows that the reply was received in the Office on December 8, 2003, a date within the period set for filing a reply to the Office letter in question. It is clear from this evidence that the application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the reply filed on December 8, 2003 At that time the change of address filed on August 18, 2004 will also be entered. Thereafter, the application will be forwarded to the examiner for immediate action on the reply filed on December 8, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Hauptman Kanesaka Berner Patent Agents, LLP
1700 Diagonal Road, Suite 310
Alexandria, VA 22314

SPE: K. Vu

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/17/07

TO SPE OF : ART UNIT 2135

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/680,574 Patent No.: 7171689

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: _____

SPE

2135
Art Unit

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MCLEAN VA 22102-3833

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OFFICE OF PETITIONS

In re Application of :
Aibara et al. :
Application No. 10/080,586 : ON PETITION
Filed: 25 February, 2002 :
Attorney Docket No. XA-9625 :

This is a decision on the petition filed on 31 March, 2004, for issuance of patent to assignee on a late assignment. This is also a decision on the petition under 37 CFR 1.181 for expedited consideration thereof.

The petition is **GRANTED**.

The requested data will be printed on the patent if this can be accomplished without substantial disruption to the issue process. However, if the printing of the patent has progressed to the point where the requested data cannot be included in the printed patent, petitioners can request a Certificate of Correction under 37 CFR 1.322.

Counsel's deposit account, No. 50-1165 will be charged $130.00 for the petition to add the assignee and $130.00 for the petition for expedited consideration.

The application is being forwarded to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at 703-308-6918.

D. Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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JAMES H. MORRIS
WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210

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OCT 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Sieber et al.	:	
Application No. 10/080,613	:	DECISION ON PETITION
Filed: 22 February, 2002	:	
Atty Docket No. I0158/7021	:	

This is a decision on the petition filed on 21 September, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 10 June, 2005, for failure to timely pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on 9 March, 2005, which

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(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)).

set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 29 August, 2005.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

This application is being referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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767 THIRD AVENUE – 25TH FLOOR
NEW YORK, NY 10017-2023

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OFFICE OF PETITIONS

In re Application of :
Kazumi Furuta et al :
Application No. 10/080,638 :
Filed: February 21, 2002 :
Attorney Docket No. 02099/LH

ON PETITION

This is a decision on the petition, filed November 16, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 12, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 1725 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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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STRATEGIC PATENT GROUP, P.C.
P.O. BOX 1329
MOUNTAIN VIEW CA 94042

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OFFICE OF PETITIONS

In re Application of	:	
Cronce, Paul A.	:	
Application No. 10/080,639	:	ON PETITION
Filed: February 21, 2002	:	
Attorney Docket No. 2401CIP	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 27, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Notice of Appeal; (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.

The Notice of Appeal filed October 27, 2006, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief accompanied by the fee required by law, runs from the date of this decision.

This matter is being referred to Technology Center 3600 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

CONVERGENT LAW GROUP LLP
PO BOX 1329
MOUNTAIN VIEW CA 94042

In re Application of	:	
Cronce	:	
Application No. 10/080,639	:	ON PETITION
Filed: February 21, 2002	:	
Attorney Docket No. 2401CIP		

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 November 27, 2009. This Notice set a statutory period for reply of three months. No issue fee having been received on or before February 27, 2010, the application became abandoned on February 28, 2010. The Office mailed a Notice of Abandonment on March 18, 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

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United States Patent and Trademark Office
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DORITY & MANNING, P.A.
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GREENVILLE, SC 29602-1449

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OFFICE OF PETITIONS

In re Application of :
Peter E. von Behrens et al :
Application No. 10/080,640 : ON PETITION
Filed: February 21, 2002 :
Attorney Docket No. APN-2 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed December 1, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 2, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 5

BAKER BOTTS LLP
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

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OCT 28 2002

OFFICE OF PETITIONS

In re Application of
Robert J. Fitzsimmons
Application No. 10/080,642
Filed: February 22, 2002
Attorney Docket No. 090928.A170
Title: STIMULATING CELL RECEPTOR ACTIVITY USING ELECTROMAGNETIC FIELDS

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed May 24, 2002.

The petition under 37 CFR 1.47(b) is **GRANTED**.

The above-identified application was filed on February 22, 2002. On March 18, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition (and fee) and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a one month extension of time.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that all of the inventors cannot be reached or refuse to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage; (4) the petition fee; (4) a statement of the last known address of the non-signing inventor; and (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application.

Accompanying the petition was, *inter alia*, a copy of a cover letter from Oaks to Fitzsimmons dated April 18, 2002, transmitting the application papers. According to Oaks, as of the date of the petition, no response from Fitzsimmons has been received.

The petition and the declaration filed on May 24, 2002 have been reviewed and found to be in compliance with 37 CFR 1.47(b).

This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Receipt of the substitute drawings submitted with the petition is acknowledged.

The application file is being forwarded to Technology Center 1600 for examination.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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ROBERT J FITZSIMMONS
1700 ENCANTO LANE
COLTON CA 92324

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OCT 28 2002

OFFICE OF PETITIONS

In re Application of
Robert J. Fitzsimmons
Application No. 10/080,642
Filed: February 22, 2002
Title: STIMULATING CELL RECEPTOR ACTIVITY USING ELECTROMAGNETIC FIELDS

LETTER

Dear Mr. Fitzsimmons:

You are named as the inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Brian W. Oaks
Baker Botts L.L.P.
2001 Ross Avenue, Suite 600
Dallas, Texas 75201-2980