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

Date :April 6, 2009

Patent No. :6724187
Inventor(s) :Norbert NIX
Issued :April 20, 2004
Title :METHODS FOR ELIMINATING ERROR SOURCES OF MAGNETIC SENSORS USED FOR :THE MEASUREMENT OF COATING THICKNESS

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction.

Review of the application file has revealed the omission of the Foreign Priority data on the printed patent as a result of applicant's failure to fully comply with 35 U.S.C. 119, in that conditional requirements were not met. Applicant's attention is directed to MPEP 201.14(a), 37 CFR 1.17(i).

In view of the forgoing, applicant's request in this matter is hereby denied.

Further review of applicants request will require a reconsideration filing together with documentation in support of applicants request filed under 1.322. Required documentation may include acknowledgement of receipts.

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

A. Green

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-9390 Ext. 123

Arent Fox, LLP
1050 Connecticut Avenue, N.W.
Ste 400
Washington, Dc 200036-5339

/arg

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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

MAILED

MAY 14 2009

OFFICE OF PETITIONS

In re Application of :
Nix et al. :
Application No. 10/087,216 :
Filed: March 4, 2002 :
Attorney Docket No. 101749-00005 :

RE-MAILED[1]
DECISION ON PETITION

This is a decision on the PETITION TO ACCEPT THE LATE FILING OF PRIORITY DOCUMENT AFTER PAYMENT OF ISSUE FEE filed March 19, 2004. This petition is treated pursuant to 37 CFR 1.55(a)(2), for entry of priority papers submitted after the date the issue fee was paid. A SUPPLEMENTAL PETITION TO ACCEPT THE LATE FILING OF PRIORITY DOCUMENT AFTER PAYMENT OF ISSUE FEE was filed on March 23, 2009, along with a request for issuance of a certificate of correction. The petitions were recently forwarded to the undersigned for consideration.

By decision mailed April 6, 2009, by the Certificates of Correction Branch, the request for certificate of correction was denied. Therein, it was stated that applicant's had failed to fully comply with 35 U.S.C. 119, in that conditional requirements were not met.

Thereafter, the petitions filed March 19, 2004 and the petition and request filed March 23, 2009, were forwarded to the undersigned for consideration. It does not appear that the Certificate of Corrections Branch considered the petition filed March 19, 2004, including the late priority document, in

[1] The decision was originally mailed on April 28, 2009. However, due to an error of the undersigned the decision was mailed to an incorrect address. The decision is being re-mailed to the address of record.

rendering their decision. (This petition was noted in the record after the mailing of the decision mailed April 6, 2009).

A review of the petition filed March 19, 2004, as confirmed by the application history, reveals that the foreign priority claim was timely filed within 4 months of the filing of the application. Specifically, the application on filing included the foreign priority claim. In addition, the foreign priority claim was set forth in the declaration for patent filed May 21, 2002, as required by 37 CFR 1.63. During prosecution, the examiner acknowledged the foreign priority claim, but noted that none of the certified documents had been received.

Receipt is acknowledged of papers submitted under 35 U.S.C. § 119(a)-(d). The certified copy of the foreign application was filed with the petition on March 19, 2004, along with the required processing fee set forth in § 1.17(i).

The priority papers are accepted as timely filed and have been placed of record in the file.

Petitioner is advised that the rule affecting the submission of a claim for priority or a certified priority document under 37 CFR 1.55(a) was changed effective November 7, 2000. In effect, the Office will permit applicants to file a priority claim or certified priority document with the processing fee set forth in 37 CFR 1.17(i) between the date the issue fee is paid and the date a patent is issued. The Office will, however, merely place such submission in the application file but will not attempt to determine whether the applicant has met the conditions of 35 U.S.C. § 119(a)-(d) to make the priority claim nor include the priority information in the text of the patent. In such a situation, the patent will not contain the priority claim information. The patentee may request a certificate of correction and a determination of entitlement for such priority will be made after the patent is granted. *See* Federal Register/Vol. 65, No. 175, September 8, 2000, page 54622.

The instant petition includes a certificate of correction pursuant to the provisions of 37 CFR 323. The required fee of $100 for the certificate of correction is being charged to the Deposit Account, as authorized.

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

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of the certificate of correction pursuant to this decision.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3219. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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MAILED Paper No.

MAY 17 2010

OFFICE OF PETITIONS

David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
(Cooley Godward)
1 Becton Drive, MC 110
Franklin Lakes NJ 07417-1880

| | | |
|---|---|---|
| In re Application of | : | |
| Yao et al. | : | |
| Application No. 10/087,217 | : | |
| Patent No.: 7,115,377 | : | DECISION ON PETITION |
| Filed: March 4, 2002 | : | PURSUANT TO |
| Issued: October 3, 2006 | : | 37 C.F.R. § 1.28(c) |
| Attorney Docket No.: P-6497 | : | |
| Title: NOVEL CELL-BASED ASSAYS | : | |
| FOR G-PROTEIN-COUPLED RECEPTOR- | : | |
| MEDIATED ACTIVITIES | : | |

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on January 27, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Petitioner has identified the particular type of fee that was erroneously paid as a small entity, when the small entity fee was actually paid, the small entity fee that was actually paid, the deficiency owed amount, and the total deficiency payment owed.

The deficiency payment will be deducted from Deposit Account number 02-1666 in due course.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

This 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

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 08

MAY 19 2003

MILTON S. GERSTEIN
MUCH, SHELIST, FREED, DENENBERG,
AMENT & RUBENSTEIN, PC
191 N. WACKER DRIVE
SUITE 1800
CHICAGO, IL 60606-1615

| | | |
|---|---|---|
| In re Application of: | : | |
| Cooper, *et al.* | : | |
| Application No. 10/087,223 | : | DECISION ON PETITION |
| Filed: March 01, 2002 | : | TO MAKE SPECIAL |
| Attorney Docket No. : 1527.003 | : | |

This is a decision on the petition under 37 C.F.R. § 1.102, filed February 24, 2003, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P., Section 708.02, Item VIII, must be accompanied by (a) the fee set forth in 37 C.F.R. § 1.17(i), (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, professional searcher, etc., and a listing of the field of search by class and subclass, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over these references.

The petition lacks item (e) in accordance with M.P.E.P., Section 708.02, Item VIII. The petitioner provides a general discussion as to how the claimed subject matter is distinguishable over the references cited. However, Section 708.02, Item VIII, of the M.P.E.P. requires a detailed description of each of the submitted references and a discussion pointing out how the claimed subject matter is distinguishable over each of the references.

Accordingly, the petition is dismissed.

Should petitioner desire reconsideration, the petitioner should supplement this petition by a statement providing the information as outlined above. No further petition fee is required.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

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

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

#1

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|---|---|---|---|
| 10/087,227 | 02/27/2002 | Alan F. Schatzberg | STAN-261 |

SEP 30 2003

JBOZICEVIC, FIELD & FRANCIS LLP
200 MIDDLEFIELD RD
SUITE 200
MENLO PARK CA 94025

CONFIRMATION NO.
6936

## Decision Dismissing Petition under 37 CFR 1.138(c)

*The declaration of express abandonment will not be recognized*

This is in response to the petition under 37 CFR 1.138(c) for express abandonment to avoid publication of the above-identified application, for which a faxed copy of the original petition was received on August 11, 2003.

The petition is dismissed.

The express abandonment will **not** be recognized because the petition under 37 CFR 1.138(c) was not received in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

Telephone inquiries should be directed to the Office of Patent Publication, the Pre-Grant Publication Division, at 703-605-4282.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

Copied from 10008722 on 08/14/2004

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JJGJR.: 08-07

Paper No: __

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AUG 27 2007

OFFICE OF PETITIONS

ROBERT C. KOWERT
CONLEY, ROSE, & TAYON, P.C.
P.O. BOX 398
AUSTIN TX 78767

In re Application of :
Kumar, et al. : DECISION
Application No.: 10/087,237 :
Filing Date: 1 March, 2002 :
Attorney Docket No. 5681-07800 :

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

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

## BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to a final Office action (copy enclosed)

[1] NOTE: **Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

mailed on 9 December, 2005, with reply due, absent an extension of time, on or before 9 March, 2006;

- the application went abandoned by operation of law after midnight 9 March, 2006;
- on 26 July, 2006, the Office mailed the Notice of Abandonment;
- on 11 August, 2006, Petitioner filed the instant petition, made a statement that his search of his files did not reveal that those files contained a copy of the Office action in question and that the absence of that Office action and the absence of the docketing of that Ofice action on the copy of the application docket sheet[2] also provided by Petitioner indicated that the Office action was not received.

Out of an abundance of caution, Petitioners always are reminded that:the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

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[2] In a call from the Office to Petitioner on 22 August, 2007, Petitioner explained that the disagreement between the certificate of mail dates on documents and the "Actions Taken" dates on docket entries is attributable to delays in the entry of that data by Petitioner's docketing office.

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

**§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.**
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;
(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have

## 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).[4]

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.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] 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).[7]

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evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[4] 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.

[5] 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.

[6] 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).

[7] 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.[8] 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.[9]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[10]

Further, the commentary at MPEP §711.03(c) provides:

* * *

**A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action**

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

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[8] 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.

[9] 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.

[10] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> The showing 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). (Emphasis supplied.)
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears, therefore, to have satisfied the showing requirements described above.

## CONCLUSION

Because Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 is **granted** as to the withdrawal of the 26 July, 2006, Notice of Abandonment–which hereby is **vacated**.

The instant application is released to Technology Center 2800 with instructions to remail the Office action previously mailed on 9 December, 2005, but not received

.

While telephone inquiries regarding this decision may be directed to the undersigned at (571)

272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[11]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Encl: 9 December, 2005, Final Office Action

[11] The regulations at 37 C.F.R. §1.2 provide:

**§1.2 Business to be transacted in writing.**

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/087,237 | 03/01/2002 | Ajay Kumar | 5681-07800 | 6956 |

7590 12/09/2005

Robert C. Kowert
Conley, Rose, & Tayon, P.C.
P.O. Box 398
Austin, TX 78767

| EXAMINER | |
|---|---|
| HOANG, PHUONG N | |
| **ART UNIT** | **PAPER NUMBER** |
| 2194 | |

DATE MAILED: 12/09/2005

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

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/087,237 | KUMAR ET AL. | |
| | Examiner | Art Unit | |
| | Phuong N. Hoang | 2194 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *29 September 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1 - 50* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 - 50* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *8/5/05 & 11/10/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

1. Claims 1 – 50 are pending for examination.

### *Claim Objections*

2. Claims 39 and 50 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

### *Double Patenting*

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1 and 14 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 7 of copending Application No. 10/087,652 (refer as 652). Although the conflicting claims are not identical, they are not patentably distinct from each other because both computer systems comprise substantially the same elements. The difference between the application no. 652 and this case is the claimed mutable accesses of the attributes in the client state. It would have been obvious to one of ordinary skill in the art would recognize that the mutable access is necessary for the multi-tasking environment that the lock is necessary to have exclusively access.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Claims 1, 14, 26, 29, and 40 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 7, 15, and 21 of copending Application No. 10/087,224 (refer as 224). Although the conflicting claims are not identical, they are not patentably distinct from each other because both computer systems comprise substantially the same elements. The differences between the application no. 224 and this case are the claimed mutable accesses of the attributes in the client state. It would have been obvious to one of ordinary skill in the art would recognize that the mutable access is necessary for the multi-tasking environment that the lock is necessary to have exclusively access.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

6. Claims 1, 14, 26, 29, and 40 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 7, 15, and 21 of copending Application No. 10/087,225 (refer as 225). Although the conflicting claims are not identical, they are not patentably distinct from each other because both computer systems comprise substantially the same elements. The differences between the application no. 225 and this case are the claimed mutable accesses of the attributes in the client state. It would have been obvious to one of ordinary skill in the art would recognize that the mutable access is necessary for the multi-tasking environment that the lock is necessary to have exclusively access.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

7. Claims 1, 14, 29, and 40 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 8, and 9 of copending Application No. 10/087,197 (refer as 197). Although the conflicting claims are not identical, they are not patentably distinct from each other because both computer system comprise substantially the same elements. The differences between the application no. 197 and this case are the claimed object graph comparison of

mutably accessed attributes of the client state of the session data with a benchmark version of the client state of the session data to determine a subset of modified attributes. It would have been obvious to one of ordinary skill in the art would recognize that the comparison has to be performed to have the modified attributes for the synchronization step.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

8. Claim 26 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 10,17, 26, and 35 of copending Application No. 10/087,234 (refer as 234). Although the conflicting claims are not identical, they are not patentably distinct from each other because both computer systems comprise substantially the same elements. The differences between the application no. 234 and this case are the claimed tack accesses of mutable attributes, determining a set of mutably accessed attributes, determining a modified subset of attributes, and synchronizing the primary state of session data with the client state of the session data. It would have been obvious to one of ordinary skill in the art would recognize that the mutable access is necessary for the multi-tasking environment that the lock is necessary to have exclusively access.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**10. Claims 26 – 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Courts, US patent no. 6,360,249 in view of Zaiken, US patent no. 5,907,848.**

11. Court and Zaiken references were cited in the last office action.

12. **As to claim 26**, Court teaches a system, comprising the steps of:

means to lock (lock, col. 8 lines 12 – 25) access to a primary state of session data (the state information, col. 5 lines 30 – 33, col. 6 lines 49 – 55) configured for access by a plurality of application servers nodes or render engine, fig. 3a and col. 7 lines 30 – col. 8 lines 20) for a process executing on one of the plurality of application servers, wherein the session data comprises a plurality of attributes (information of user sessions, col. 6 lines 50 – 55);

wherein, while the primary state is locked for the process, other processes cannot access the primary state (it is the concept of locking);

wherein each of the plurality of application servers (nodes or render engine, fig. 3a and col. 7 lines 30 – col. 8 lines 20) comprises a client state of the session (state information of user session, col. 6 lines 50 – 55) data accessible to processes executing within the application server;

means for each of the application servers to:

track (track to know when the data need to update, col. 9 lines 45 – 65 and col. 5 lines 20 – 50) accesses of mutable attributes (mutable variable names or value in user session data, col. 10 lines 8 – 25) in the client state of the session data;

determine a set of mutably accessed attributes of the client state of the particular application server (get the current state information for that session data that comprise mutable variable names or value, col. 7 lines 60 – col. 8 lines 25 and col. 10 lines 8 – 25);

determine a subset of the set of mutably accessed attributes that are modified in respect to the primary state (the changes to that session, col. 8 lines 10 – 65, col. 10 lines 8 – 25, and fig. 4);

means to synchronize the primary state with the client state using the subset of modified attributes (the changes to the session state is written back to from session cache to global session server 208, col. 8 lines 10 – 65, and figure 4).

Courts does not explicitly teach the step of comparing to determining the changes. While Courts teaches a subset of modified attributes getting from the current accessed attributes and the previous version of attributes, the comparison step to get the subset of modified attributes is implied or obvious.

Zaiken teaches the step of comparison current and previous version of data in the session to determine the changes (compared the data values stored in the record with previously stored data values to find the match, col. 10 lines 1 – 30).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Courts and Zaiken's system because Zaiken's comparing step would be necessary for the Courts's system to determine the changes between the current user state data and previous user state data.

13. **As to claim 27**, Courts teaches the step of wherein said means for each of the application servers to determine a set of mutably accessed attributes of the client state of the particular application server comprises tracking mutable accesses of the attributes in the client state (lock, col. 8 lines 10 – 65).

**14. Claims 29 – 36, 39 – 47, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Courts, US patent no. 6,360,249 in view of Challenger, US patent no. 6,026,413.**

15. **As to claim 29**, Courts teaches a method comprising the steps of

tracking mutable accesses (track to know when the data need to update, col. 9 lines 45 – 65 and col. 5 lines 20 – 50) of a plurality of attributes of a client state of the session data (mutable variable names or value in user session data, col. 8 lines 1 – 25 and col. 10 lines 8 – 25), wherein the client state is associated with an application server (servers, col. 5 lines 30 – 35);

mutably accessed attributes (mutable variable names or value in user session data, col. 8 lines 1 – 25 and col. 10 lines 8 – 25), a subset of modified attributes (changes to the session state, col. 8 lines 10 - 25), wherein the benchmark version of the client state of the session data comprises a previous version of the attributes (session cache 206) in the client state of the session data; and

synchronizing a primary state of the session data with the client state according to the subset of modified attributes (the changes to the session state is written back to from session cache to global session server 208, col. 8 lines 10 – 65 and col. 10 lines 8 – 25), wherein the primary state is accessible by a plurality of application servers.

Courts does not explicitly teach the step of performing an object graph comparison to determine the changes. While Courts teaches a subset of modified attributes getting from the current accessed attributes and the previous version of attributes, the comparison step to get the subset of modified attributes is implied or obvious.

Chanllenger teaches the step of object graph comparison of current and previous version of state data (compared graph objects including the state data of two versions to determine whether the two versions are dissimilar or not, col. 28 lines 1 – 7 and col. col. 10 lines 36 - 43).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Courts and Challenger's system because Chanllenger's comparing between current version with previous version would provide the Challenger's system the modified information between the current user state data and previous user state data for the synchronization step.

16. **As to claim 30**, Challenger teaches the step of wherein a mutable access comprises a write access to an attribute (write locks, col. 35 lines 55 - 65).

17. **As to claim 31**, Courts teaches the step of wherein said synchronizing comprises updating the primary state using the subset of modified attributes (update the changes to the session state from session cache to global session server 208, col. 8 lines 10 – 65).

18. **As to claim 32**, Courts teaches the step of locking the primary state (lock the global session server, col. 8 lines 10 – 60) for access by a process executing on the

application server, wherein, while the primary state is locked for access by the process, other processes on the plurality of application servers cannot access the primary state (it is the capability of locking).

19. **As to claims 33 and 34**, Courts teaches the step comprising of the process receiving a request to release locked (unlock, col. 8 lines 10 – 60) access to the primary state; and the process releasing the locked access to the primary state in response to said request.

20. **As to claim 35**, Challenger teaches the step of a thread (threads, col. 32 lines 5 – 12, and col. 33 lines 20 – col. 34).

21. **As to claim 36**, Court teaches the step comprising of determining differences between the primary state and a benchmark version of the primary state; and synchronizing another instance of the primary state (the changes to the session state is written back to from session cache to global session server 208, col. 8 lines 10 – 65) with the primary state using the determined differences.

22. **As to claim 39**, see discussion for claim 26 above.

23. **As to claim 40,** it is the software claim of claim 29. See rejection for claim 29 above.

24. **As to claims 41 – 47,** see rejection for claims 30 – 36 above.

25. **As to claim 50,** see rejection for claim 39 above.

26. **Claims 37 - 38, and 48 - 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Courts, US patent no. 6,360,249 in view of Challenger, US patent no. 6,026,413, in view of Jackson, Pub no. 20030051145.**

27. Jackson reference was cited in the last office action.

28. **As to claims 37 and 38,** Courts and Challenger do not explicitly teach the step of performing a binary comparison of the primary state and the benchmark version of the primary state.

Jackson teaches the step of performing a binary comparison (data is sent in binary and compared, col. 3 [0022]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Courts, Challenger, and Jackson's system because Jackson's binary sending and comparison would keep the data to be more secured and the system run more efficiently.

29. **As to claims 48 and 49**, see rejection for claims 37 and 38 above.

***Allowable Subject Matter***

30. Claims 1 – 25 are allowed.

31. Claim 28 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

32. Applicant's arguments filed 4/14/05, with respect to claims 26 – 50, have been fully considered but they are not persuasive.

33. Applicant argued in substance that

(1) Applicant argued that claims 39 and 30 further limits the subject matter of claim 29. "Claim 29 recites "tracking mutable accesses of a plurality of attributes on a client state of session data". Claim 39 is concerned with tracking accesses (not necessarily just mutable accesses) of mutable attributes. Thus, claim 39 does provide further limitation on the subject matter recited in claim 29. Similar arguments apply to claim 50 as well."

(2) Court in view of Zaiken fails to teach the step of "track mutable accesses of the attributes". Court does not describe tracking accesses to individual mutable attributes in the session cache.

(3) Court in view of Zaiken fails to teach determining a set of mutably accessed attributes.

(4) It is unclear how Court system can include a subset of the mutably accesses attributes while Court teaches changes is written back to global session server. The cited portion of Zaiken does not teach comparing current and previous versions of data to determine the changes in session data.

(5) While Challenger teaches using object graphs for comparing different versions of data, Challenger has nothing to do with comparing mutably accessed attributes ..... modified attributes.

34. Examiner respectfully disagrees with applicant's remark

As to point 1, claim 39 does not further provide the limitation on the subject matter. "tracking mutable accesses of a plurality of attributes" or "tracking accesses of mutable attributes" have the same meanings. "tracking accesses" is not necessary just mutable access; however, the claimed limitation is "tracking access of mutable attributes", not tracking accesses of any attributes.

As to point 2, Examiner map more details to support and clarify the claimed limitation "track mutable accesses of the attributes". Applicant certainly admitted that Court teaches the claimed limitation (pages 18 and 22). Applicant did not claim tracking individual mutable attributes.

As to claim 3, Current state and session information comprise mutable variable names, col. 7 lines 60 – col. 8 lines 25 and col. 10 lines 8 – 25).

As to point 4, examiner mapped the claimed limitation on claim 26. Repeated claimed limitation on claim 29 has been mapped on the last office action. Even applicant acknowledged the cited portion, applicant missed to characterize the meaning of "modified attributes". Examiner clearly cited the modified attributes to "changes to session data". Also, applicant is supposed to read the cited reference as a whole.

While Court teaches the changes to session state are written to global session server (fig. 4 and col. 8 lines 10 – 25), the comparing step for the changes should be implied or obvious. Zaiken teaches comparing two versions of data to fine a match (compared the data values stored in the record with previously stored data values to find the match, col. 10 lines 1 – 30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Courts and Zaiken's system because Zaiken's comparing step would be necessary for the Courts's system to determine the changes between the current user state data and previous user state data. It's a combination of Court and Zaiken, not any alone, teaches the claimed limitations.

As to point 5, it is the combination of Courts and Challenger, not any alone, teaches the claimed limitations. Court teaches mutably accessed attributes (mutable variable names or value in user session data, col. 8 lines 1 – 25 and col. 10 lines 8 – 25) benchmark version of the client state of the session data (session cache 206). Court teaches the determining the subset (changes to session state, col. 8 lines 15 – 25). Once Court teaches the current version, previous version, and the different or modified data between two versions, the comparison step should be implied or obvious. Examiner cited Challenger for teaching comparing the object graphs of two versions to determine whether they are different (compare objects.....dissimilar, col. 28 lines 1 – 8). 10 lines 36 - 43). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Courts and Challenger's system because Chanllenger's comparing between current version with previous

version would provide the Challenger's system the modified information between the current user state data and previous user state data for the synchronization step.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong N. Hoang whose telephone number is (571)272-3763. The examiner can normally be reached on Monday - Friday 9:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on 571-272-3718. 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).

Ph
November 29, 2005

WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

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OFFICE OF PETITIONS

In re Application of

Gorman, et al.

Application No. 10/087,263

Filed: March 1, 2002

Attorney Docket No. 012.P53018

: DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), August 10, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1400.00, and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed August 10, 2005. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on November 11, 2005. A Notice of Abandonment was mailed on June 2, 2006.

The issue fee and publication fee were received on August 10, 2006.

Form PTOL-85B, filed August 10, 2006, is noted and made of record.

The application is being directed to the Office of Patent Publications for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Paper No. 11

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OFFICE OF PETITIONS

In re Application of :
Andy Vilcauskas :
Application No. 10/087,274 : ON PETITION
Filed: March 1, 2002 :
Attorney Docket No. 8096.0001 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 13, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Since the $475 extension of time fee submitted with the present petition was subsequent to the six-month statutory 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 the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center 2600.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JUN 7 2006

KEITH FRANTZ
401 WEST STATE STREET
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ROCKFORD IL 61101

In re Application of:
FREDERICK ET AL
Serial No.: 10/087,322
Filed: February 28, 2002
Title: Methods and Apparatus for Sensing Angular Position and Speed of a Rotatable Shaft Utilizing Linearized Annular Magnet and Commutated Rationmetric Hall Sensors

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed May 20, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned for failure to timely reply to the non-final Office action mailed July 8, 2003, setting a three-month period of response. A Notice of Abandonment was mailed on March 16, 2004.

Petitioner asserts that an Amendment and Response to the non-final Office action was timely mailed to the US Patent and Trademark Office on November 10, 2004 via regular mail. This is evidenced by 1) a copy of the Amendment and Response to the non-final Office action, 2) a copy of the Transmittal Form containing the certificate of mailing and 3) a statement attesting to the personal knowledge of the mailing of the Amendment and Response.

The review of the application file reveals that the Amendment and Response to the July 8, 2003 Office action was received and matched with the file. However, the Amendment and Response became separated from the Transmittal Form and thus the certificate of mailing was not ascertainable and consequently the application was held to be abandoned. The application is not abandoned in fact.

The procedure for determining whether a response is considered timely filed by being mailed but not received in the Office is set forth below.

> 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.

The petition meets the conditions of 37 CFR § 1.8(b) to establish the previous timely filing of the Amendment and Response.

For the above reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to the technical support staff for processing the Amendment and Response to the non-final Office action. From there the application file will be forwarded to the examiner of record for consideration of the Amendment and Response and prompt appropriate action.

Any inquiry regarding this decision should be directed to Jose G. Dees, Special Program Examiner, at (571) 272-1569.

Arthur, Grimley, Acting Director
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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SEP 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Fore et al. : DECISION ON
Application No. 10/087,327 : PETITION
Filed: March 1, 2002 :
Attorney Docket No. 4287-010 :

This is a decision on the petition, filed September 8, 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 28, 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. On May 12, 2003, the USPTO mailed petitioner a Notice Regarding Rescission of Nonpublication Request, which set forth the projected publication date of September 4, 2003.

This application is being forwarded to Technology Center Art Unit 3654 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

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OFFICE OF PETITIONS

In re Application of :
Sang K. Cha et al :
Application No. 10/087,360 : DECISION GRANTING PETITION
Filed: March 1, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 2058.133US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 6, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 20, 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 January 21, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (amendment), (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of October 20, 2005 is accepted as having been unintentionally delayed.

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

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

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1,020 extension of time fee submitted with the petition on September 6, 2006 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

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

This matter is being referred to Technology Center AU 2163 for appropriate action in the normal course of business on the reply received September 6, 2006.

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. 8

Wagner Murabito & Hao
Two North Market Street, Third Floor
San Jose, CA 95113

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DEC 2 4 2002

OFFICE OF PETITIONS

In re Application of :
Maurice Sharp :
Application No. 10/087,373 : ON PETITION
Filed: February 28, 2002 :
Attorney Docket No. PALM-3781 :

This is a decision on the petition under 37 CFR 1.137(b), filed, October 16, 2002 , to revive the above-identified application, which is being treated as a petition for a five-month extension of time.

The petition for a five-month extension of time is granted.

Pursuant to the provisions of 37 CFR 1.136(a), extensions of time are available up to five months since the time period for responding to the Notice to File Missing Parts is not subject to the six-month maximum period specified in 35 USC 133. Note Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 (October 10, 1997), 1203 Off. Gaz. Patent Office 63 (October 21, 1997). The petition to revive and reply were filed prior to the expiration of the extendible time period provided by 37 CFR 1.136(a). Accordingly, since extensions of time were available at the time of the filing of the petition to revive and reply, the petition to revive is unnecessary and is dismissed as moot.

The $1040 balance due for the five-month extension of time fee will be charged to petitioner's Deposit Account No. 23-0085. The fee of $1280 for the petition under 37 CFR 1.137(b) will be credited to petitioner's deposit account.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6

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FEB 0 4 2004

Technology Center 2100

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025

In re Application of
Alok KHANNA, et al
Application No. 10/087,383
Filed: March 1, 2002
For: LOGIN FOR ONLINE ACCOUNT AGGREGATION

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed January 16, 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.**

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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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APR 25 2006

OFFICE OF PETITIONS

In re Application of :
KHANNA et al. :
Application No. 10/087,383 : DECISION ON PETITION
Filed: March 1, 2002 : TO WITHDRAW
Attorney Docket No. 5210.P001 : 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 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 Daniel M. DeVos on behalf of all practitioners of record. All attorneys/agents 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 August 23, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: TROY REINHARD
ADHESION TECHNOLOGIES, INC.
5935 CARNEJIO BOULEVARD
CHARELOTTE, NC 28209

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 26 2006

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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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

COPY MAILED

APR 25 2006

OFFICE OF PETITIONS

In re Application of

KHANNA et al.
Application No. 10/087,383
Filed: March 1, 2002
Attorney Docket No. 5210.P001

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 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 Daniel M. DeVos on behalf of all practitioners of record. All attorneys/agents 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 August 23, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: TROY REINHARD
ADHESION TECHNOLOGIES, INC.
5935 CARNEJIO BOULEVARD
CHARELOTTE, NC 28209

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MICHAEL H. JESTER
AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland CO 80537-0599

COPY MAILED
JUL 25 2006
OFFICE OF PETITIONS

In re Application of
NISHIMURA, KEN A. et al
Application No. 10/087,386
Filed: March 1, 2002
Attorney Docket No. 10004331-1

DECISION ON PETITION

This is a decision on the petition filed December 12, 2005, under 37 CFR 1.182 to the Office of Petitions, to reconsider the Notice of Panel Decision from Pre-Appeal Brief Review mailed October 18, 2005.

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

On October 18, 2005, the USPTO held that applicant's Pre-Appeal Brief Request for Review (Request) filed on October 5, 2005 was an improper Request because an Information Disclosure Statement (IDS) was filed along with the Request, and the requested conference would not be held.

Petitioner requests relief under 37 CFR 1.182 to reconsider the decision on the Notice of Panel Decision of October 18, 2005 denying a pre-appeal brief conference on the basis of the concurrent filing of a supplemental IDS.

The Director cannot consider petitions pursuant to 37 CFR 1.182 on questions where the relief is already provided for. Specifically, the *Off. Gaz. Pat. Off* of July 12, 2005 set forth the requirements and guidelines for consideration and termination of the Pre-Appeal Brief Conference Request. Any review involving an *ex parte* action or requirement in a patent application is referred to the Group Director of the Technology Center to invoke supervisory authority under the provisions of 37 CFR 1.181. See MPEP 1002.02(c)(3). Should an applicant, in turn, seek review of an adverse action of the Group Director, that review would come before the Office of Petitions under the provisions of 37 CFR 1.181. Accordingly, the petition is granted solely to the preliminary, procedural extent that the Technology Center Director is authorized to consider the petition under the provisions of 37 CFR 1.181(a).

This application file is being referred to the Technology Center Director of Art Unit 2613 as a petition under 37 CFR 1.181 seeking to invoke supervisory authority of the Technology Center Director for reconsideration on the decision on the Pre-Appeal Brief Request for Review filed on October 18, 2005.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414.

Brian Hearn
Petitions Examiner
Office of Petitions

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---|---|---|---|---|
| 6758115 | 2004-07-06 | 10087390 | 2002-03-01 | |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

| NOT Small Entity | | | Small Entity | | |
|---|---|---|---|---|---|
| | Fee | Code | | Fee | Code |
| ◉ | 3 ½ year | (1551) | ○ | 3 ½ year | (2551) |
| ○ | 7 ½ year | (1552) | ○ | 7 ½ year | (2552) |
| ○ | 11 ½ year | (1553) | ○ | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

| Patent Practitioner | | | |
|---|---|---|---|
| A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature | | | |
| Signature | /Dean B. Watson/ | Date (YYYY-MM-DD) | 2008-11-26 |
| 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. 6758115
Issue Date: July 6,2004
Application No. 10087390
Filed: March 1,2002
Attorney Docket No. 128951

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

This is a decision on the electronic petition, filed November 26,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 26,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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F. DREXEL FEELING
JONES, DAY, REAVIS & POGUE
901 LAKESIDE AVENUE/NORTH POINT
CLEVELAND, OH 44114

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SEP 2 7 2002

OFFICE OF PETITIONS

In re Application of :
Daniel M. Fischer; Dan G. Radut; :
Michael F. Habicher; Quang A. Luong; : DECISION GRANTING PETITION
Jonathan T. Malton and Charles B. : UNDER 37 CFR 1.47(a)
Meyer :
Application No. 10/087,391
Filed: March 1, 2002
Title: SYSTEM AND METHOD FOR POWERING AND CHARGING A MOBILE COMMUNICATION DEVICE

This is in response to the "Petition Under 37 CFR 1.47(a)," filed August 5, 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 Declaration. Notice of the filing of this application will also be published in the Official Gazette.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DAN G. RADUT
300 REGINA STREET, NORTH
BUILDING 1, APT, 1207
WATERLOO, ONTARIO N2J 3B8
CANADA

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SEP 2 7 2002

OFFICE OF PETITIONS

In re Application of
Daniel M. Fischer; Dan G. Radut; Michael F. Habicher;
Quang A. Luong; Jonathan T. Malton and Charles B. Meyer
Application No. 10/087,391
Filed: March 1, 2002
Title: SYSTEM AND METHOD FOR POWERING AND CHARGING A MOBILE COMMUNICATION DEVICE

Dear DAN G. RADUT:

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 Edward Tannouse at (703) 306-9200. 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

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

F. DREXEL FEELING
JONES, DAY, REAVIS & POGUE
901 LAKESIDE AVENUE/NORTH POINT
CLEVELAND, OH 44114

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Scott D. Sanford
O'Melveny & Myers LLP
275 Battery Street
San Francisco, CS 94111-3305

| | | |
|---|---|---|
| In re Application of | : | Petition to EXPUNGE |
| Bonora, et al | : | INFORMATION |
| Application Number 10/087,400 | : | UNDER 37 CFR 1.59(b) |
| Filed: March 1, 2002 | : | |
| For: WAFER ENGINE | : | |
| | : | |

This is a decision on Applicant's Petition under 37 CFR 1.59(b) filed on November 19, 2002 to expunge information from the record.

The Petition is **Dismissed**.

The Information Disclosure Statements submitted on June 13, 2002 and November 19, 2002 included patent applications. The documents were identified as required by MPEP 724.02(b) as proprietary material and the documents were found not to be important to the examiner deciding the patentability of the application.

MPEP 724.05 states that a Petition to expunge, whether or not it is filed with the Information Disclosure Statement, must include: (A) a clear identification of the information to be expunged without disclosure of the details thereof; (B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public; (C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted; (D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information; and (E) the fee as set forth in 37 CFR 1.17(i) for a petition under 37 CFR 1.59.

The Petition filed November 19, 2002 does not include a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted and a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information as required by MPEP 724.05(C) and (D). Furthermore, serial number 10/194,702 has since published as 2003/0091409 and therefore is in the public record.

For these reasons, the petition is **Dismissed**.

John J. Love
Director
Patent Technology Center 3600
(571) 272-3600

RR/EDL 4/10/06

UNITED STATES 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

THOMAS F. MEAGHER
KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

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JUL 1 0 2003

OFFICE OF PETITIONS

In re Application of
Chihaya Adachi et al
Application No. 10/087,417
Filed: March 1, 2002
Attorney Docket No. 10020/21302

NOTICE

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

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

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

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

This file is being forwarded to Technology Center 2800.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 7

PATULA & ASSOCIATES P.C.
14th Floor
116 South Michigan Avenue
Chicago IL 60603

COPY MAILED

OCT 2 3 2002

OFFICE OF PETITIONS

In re Application of :
Walter Conard, Patrick Casher, John O'Callaghan, :
Daniel Gibbons, Frederick Hegland, Roy Schoon, and :
George Rabindran :
Application No. 10/087,446 : DECISION REFUSING STATUS
Filed: March 1, 2002 : UNDER 37 C.F.R. §1.47(a)
Attorney Docket No. 5384/55090 :
Title: MAIL WEIGHING SYSTEM AND SCALE :
APPARATUS :

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed August 22, 2002.

The petition is **DISMISSED**.

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

On March 1, 2002, the application was deposited, identifying Walter Conard, Patrick Casher, John O'Callaghan, Daniel Gibbons, Frederick Hegland, Roy Schoon, and George Rabindran as joint inventors. The application was deposited without an executed oath or declaration. On March 22, 2002, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that an executed oath or declaration, a surcharge of $130.00, and the basic filing fee were required. This Notice set a two-month period for reply.

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

With the instant petition, the petitioner has included the filing fee for the petition, the $130.00 surcharge, a three (3) month extension of time to make timely this reply, a declaration executed by each inventor save inventor Gibbons, statements of facts from both the petitioner[2] and Maribel Barron, an employee of the assignee, and copies of a letter sent to the non-signing inventor.

Petitioner has met requirements (1)-(2) of 37 C.F.R. §1.47(a) above.

Regarding the third requirement, petitioner has failed to include a statement of the last known address of the non-signing inventor[3].

Regarding the fourth requirement above, the statement of Ms. Barron "I sent a package...to Daniel Gibbons...the package was sent next day air via Airborne Express with a tracking number of 15524280951" is insufficient, for the following two reasons. First, the statement does not reveal where the package was sent. Secondly, a tracking search on the Airborne Express for this number suggests that this tracking number does not exist[4]. Where a refusal of the inventor to sign the application papers is alleged, the Office requires the petitioner to establish that a bona fide attempt was made to mail a complete copy of the application, which entails the specification, claims, drawings, and oath or declaration.[5] On renewed petition, it should be established that a complete copy of the application was sent to the non-signing inventor.

Regarding the fifth requirement above, it follows that since it has not been shown that a complete copy of the application was sent to the inventor, one cannot refuse to sign something which one has not seen. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed[6].

Regarding the sixth requirement, petitioner has not submitted a declaration which complies with 37 CFR §1.63. The declaration submitted with the instant petition contains non-initialed and non-dated changes by inventor Hegland[7]. Furthermore, the declaration fails to contain the residential address, mailing address, and citizenship information for non-signing inventor Gibbons[8].

On renewed petition, the petitioner must submit a new declaration executed by each of the non-signing inventors, or he may submit a fully executed declaration if available.

There is no indication that the person signing the present petition was ever given a power of attorney or authorization of agent to prosecute the instant application. Moreover, the application does not indicate a change of address has been filed in the case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent documentation and change of correspondence address must be submitted. While a courtesy copy of this decision is being mailed to the person signing the present petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

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2 It is noted that this attorney is not listed as an attorney of record.
3 See MPEP 409.03(e).
4 See enclosure.
5 See MPEP 409.03(d).
6 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
7 See 37 C.F.R. §1.52(c)(1).
8 See 37 C.F.R. §§1.63(c)(1), 1.63(a)(3).

treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay[9]. 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.

In light of the recent events, the USPTO **strongly** prefers that the reply to this letter be submitted by facsimile[10]. However, if applicant cannot submit the reply to this letter by facsimile (or hand-delivery[11]), the reply may be mailed[12].

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

The request for a corrected filing receipt has been noted, however one cannot be issued at this time due to problems with the software utilized by the Office. Petitioner is advised to make a second request for a corrected filing receipt upon renewed petition.

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

for D Wood

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

encl. Power of Attorney Form (PTO/SB/81)
Airborne Express Tracking Report
Summary of the Privacy Act of 1974

cc: David M. Tennant
600 13th Street, NW
Washington, DC 20005-3096

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9 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).
10 (703) 308-6916, Attn: Office of Petitions.
11 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.
12 Commissioner for Patents, Box DAC, Washington, DC 20231.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Pillsbury Winthrop LLP
Intellectual Property Group
50 Fremont Street
P.O. Box 7880
San Francisco CA 94105

MAIL

MAR 1 1 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Liang et al
Application No. 10/087,450
Filed: February 28, 2002
For: **FRAME RATE CONTROL SYSTEM AND METHOD**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the Petition filed October 25, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN, VA 22102

MAIL

JAN 13 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Jui Liang
Application No. 10/087,450
Filed: February 28, 2002
For: FRAME RATE CONTROL SYSTEM AND METHOD

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record and change of address filed on July 21, 2004.

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

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

All of the attorneys/agents of record listed in the Request are withdrawn.

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

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

cc: Media Reality Technologies, INC.
650 North Mary Avenue
Sunnyvale, CA 94085

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

ADAM K SACHAROFF
MUCH SHELIST FREED DENENBERG AMENT & RUBENSTEIN PC
191 N WACKER DRIVE
SUITE 1800
CHICAGO IL 60606-1615

COPY MAILED

DEC 22 2003

OFFICE OF PETITIONS

In re Application of :
Shubert, et al. :
Application No. 10/087,458 :
Filed: February 27, 2002 : DECISION ON PETITION
Attorney Docket No. 021532-000100US:

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed October 27, 2003.

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of a PCT international application filed on June 2, 2003. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

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

A petition under 37 CFR 1.137(f) must be accompanied by:

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

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

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

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

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded.

A Notice of Incomplete Reply was mailed on August 1, 2003. A courtesy copy is enclosed for petitioner's convenience.

The application file is being forwarded to Technology Center 3700, Group Art Unit 3732, to await for applicant's reply to the Notice of Incomplete Reply, and for resetting the period for reply to that notice to run from the mail date of this decision.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Notice of Incomplete Reply (1 page)

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---|---|---|---|---|
| 6692457 | 2004-02-17 | 10087507 | 2002-03-01 | INSL-0118 |

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 | /R. Anthony Diehl, Reg. No. 38432/ | Date (YYYY-MM-DD) | 2008-04-24 |
| Name | R. Anthony Diehl | Registration Number | 38432 |

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. 6692457
Issue Date: February 17,2004
Application No. 10087507
Filed: March 1,2002
Attorney Docket No. 59249-030 (INSL-118)

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

This is a decision on the electronic petition, filed April 24,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 24,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

HELLER EHRMAN WHITE & McAULIFFE
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025

COPY MAILED

SEP 1 2 2003

OFFICE OF PETITIONS

In re Application of :
Rong-Chang Liang et al :
Application No. 10/087,527 : ON PETITION
Filed: February 28, 2002 :
Attorney Docket No. 26822-0002C1 :

This is a decision on the petition, filed September 9, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

**Petitioner is advised that the issue fee paid on August 20, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

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

The application is being forwarded to Technology Center AU 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

COPY MAILED

MAY 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Brigitte Chau Phan et al. :
Application No. 10/087,549 : ON PETITION
Filed: February 28, 2002 :
Attorney Docket No: BT12 00102703(USP3)
USP8

This is a decision on the petition under 37 CFR 1.47(a) filed November 1, 2004, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.63 where they require that a supplemental declaration be executed by the named inventor.[1]

The petition is **GRANTED.**

In view of the efforts recounted in the petition to obtain the signature of KaYuen Yeung, it is agreed that justice would be served by waiving the requirement for her signature on the supplemental declaration filed November 1, 2004.

The aforementioned supplemental declaration has been accepted, on petition, and placed in the file.

This matter is being referred to Technology Center 1634.

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

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

# 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) |
|---|---|---|---|---|
| 6,595,606 | 2003-07-22 | 10/087,567 | 2002-03-01 | 180009.91214 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

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

Small Entity

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

| Patent Practitioner | | | |
|---|---|---|---|
| A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature | | | |
| Signature | /Michael J. McGovern/ | Date (YYYY-MM-DD) | 2008-08-14 |
| Name | Michael J. McGovern | Registration Number | 28326 |

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. 6595606
Issue Date: July 22,2003
Application No. 10087567
Filed: March 1,2002
Attorney Docket No. 180009.91214

:

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

:

This is a decision on the electronic petition, filed August 14,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 14,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

COATS & BENNETT, PLLC
P O BOX 5
RALEIGH, NC 27602

COPY MAILED

SEP 15 2003

OFFICE OF PETITIONS

In re Application of
James R. Fore SR, et al.
Application No. 10/087,585
Filed: March 1, 2002
Attorney Docket No. 4287-013

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

This is a decision on the petition, filed September 8, 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 February 28, 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 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.

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 3654 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

cc: LARRY L. COATS
1400 CRESCENT GREEN, STE. 300
CARY, NC 27511

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

COPY MAILED

JUL 19 2006

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Constantz et al. | : | DECISION ON PETITION |
| Application No. 10/087,599 | : | TO WITHDRAW HOLDING OF |
| Filed: 28 February, 2002 | : | ABANDONMENT |
| Atty Docket No. CORA-014 | : | |

This is a decision on the petition, filed on 12 May, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **granted**.

This application was held abandoned for failure to timely and effectively respond to the non-final Office action mailed on 28 September, 2005, which set a three (3) month shortened statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned and a Notice of Abandonment was mailed on 4 April, 2006.

Petitioner asserts that a timely response was filed. In support, petitioners have supplied a copy of the reply, consisting of an amendment and a three (3) month extension of time. The response includes an itemized postcard bearing an "Office date" stamp of 28 March, 2006.

A review of the official file reveals that on 28 March, 2006, an amendment and three (3) month extension of time were timely received. As such, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

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

The application file is being forwarded to Technology Center Art Unit 3763 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Daniel M.DeVos
BLAKELY, SOKOLOFF, TAYLOR &
ZAFMAN LLP
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025

MAIL

JAN 2 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Alok Khanna
Application No. 10/087,623
Filed: March 1, 2002
For: INSTRUCTION SET FILE GENERATION FOR ONLINE ACCOUNT AGGREGATION

**DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed January 15, 2004.

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

The request filed January 15, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: Trey Adhesion Technologies, Inc.
5935 Carnejie Boulevard
Charlotte, NC 28209

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

F. Drexel Feeling, Esq.
Jones, Day, Reavis & Pogue
901 Lakeside Avenue/North Point
Cleveland, OH 44114

COPY MAILED

SEP 0 9 2002

OFFICE OF PETITIONS

In re Application of :
Fischer, et al. :
Application No. 10/087,629 : DECISION GRANTING STATUS
Filed: March 1, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 555255012294 :
For: MULTIFUNCTIONAL CHARGER SYSTEM:
AND METHOD :

This is in response to the petition under 37 CFR 1.47(a), filed August 5, 2002.

The petition is **GRANTED**.

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DAN G. RADUT
300 REGINA STREET, NORTH
BUILDING 1, APT. 1207
WATERLOO, ONTARIO N2J 3B8
CANADA

COPY MAILED

SEP 0 9 2002

OFFICE OF PETITIONS

In re Application of :
Fischer, et al. :
Application No. 10/087,629 : LETTER
Filed: March 1, 2002 :
Attorney Docket No. 555255012294 :
For: MULTIFUNCTIONAL CHARGER SYSTEM:
AND METHOD :

Dear Sir:

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

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

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

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

CC: F. Drexel Feeling, Esq.
Jones, Day, Reavis & Pogue
901 Lakeside Avenue/North Point
Cleveland, OH 44114

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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FROM DIRECTORS OFFICE

DEC 15 2005

TECHNOLOGY CENTER 3600

Scott D. Sanford
O'Melveny & Myers LLP
275 Battery Street
San Francisco, CS 94111-3305

Paper No. 12142005

| | | |
|---|---|---|
| In re Application of | : | Petition to EXPUNGE |
| Bonora, et al | : | INFORMATION |
| Application Number 10/087,638 | : | UNDER 37 CFR 1.59(b) |
| Filed: March 1, 2002 | : | |
| For: Unified Frame For Semiconductor | : | |
| Material Handling System | : | |

This is a decision on Applicant's Petitions under 37 CFR 1.59(b) filed on June 13, 2002 and November 19, 2002 to expunge information from the record.

The Petition is **Dismissed**.

The Information Disclosure Statements submitted on June 13, 2002 and November 19, 2002 included patent applications. The documents were identified as required by MPEP 724.02(b) as proprietary material and the documents were found not to be important to the examiner deciding the patentability of the application.

MPEP 724.05 states that a Petition to expunge, whether or not it is filed with the Information Disclosure Statement, must include: (A) a clear identification of the information to be expunged without disclosure of the details thereof; (B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public; (C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted; (D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information; and (E) the fee as set forth in 37 CFR 1.17(i) for a petition under 37 CFR 1.59.

The Petition filed June 13, 2002 does not include a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted and a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information as required by MPEP 724.05(C) and (D). Furthermore, serial number 10/087,092 has since published as 2003/004261 and therefore is in the public record.

As for Serial number 10/087,400 this application was not published but has been allowed.

The Petition filed November 19, 2002 does not include a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted and a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information as required by MPEP 724.05(C) and (D). Furthermore, serial number 10/194,702 has since published as 2003/0091409 and therefore is in the public record.

For these reasons, the petitions are Dismissed.

Robert Oberleitner
Director
Patent Technology Center 3600
(571) 272-3600

RR/EDL 12/14/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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THE LAW OFFICE OF IDO TUCHMAN
82-70 BEVERLY ROAD
KEW GARDENS NY 11415

COPY MAILED

MAR 1 8 2008

OFFICE OF PETITIONS

In re Application of :
Norman H. Cohen et al :
Application No. 10/087,647 : DECISION GRANTING PETITION
Filed: March 1, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. YOR920010781 :

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**.

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 received. Accordingly, the reply of July 30, 2007, 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 2195.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY 19 2005

Merchant & Gould PC
P.O. Box 2903
Minneapolis, MN 55402-0903

| | | |
|---|---|---|
| In re Application of | : | DECISION ON PETITION |
| Edward L. Blach et al | : | TO WITHDRAW |
| Serial No. : 10/087,668 | : | HOLDING OF |
| Filed : March 1, 2002 | : | ABANDONMENT |
| For : Nasal Support Device for Animals and Method | : | |

This is a decision on petitioner's request filed December 20, 2004 to review the holding of abandonment mailed December 13, 2004, for failure to respond to the Office action mailed May 5, 2004. The basis for the request is that applicant did not receive the communication mailed May 5, 2004. There is no fee required for this petition.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The request filed December 20, 2004 includes all the above elements. The request is therefore GRANTED and the holding of abandonment withdrawn. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the re-mailing of the Office action of May 5, 2004.

Summary: Holding of Abandonment Withdrawn.

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

ak/05/09/05

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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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

**COPY MAILED**

MAR 26 2009

**OFFICE OF PETITIONS**

In re Application of :
Jered Donald Aasheim, et. al. :
Application No. 10/087,672 : ON PETITION
Filed: February 27, 2002 :
Attorney Docket No. 183343.01 :

This is a decision on the petition under 37 CFR 1.137(b), filed on January 21, 2009, to revive the above-identified application.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Mark F. Niemann appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The application became abandoned for failure to respond to the Notice of Allowance and Fee(s) Due mailed July 25, 2008. A Notice of Abandonment was mailed on November 19, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,510 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

Since the statement contained in the present petition varies from the language required by 37 CFR 1.137(b)(3) and it is not apparent whether the statement is 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, the statement is being construed and accepted as constituting a certification of the unintentional delay. However, if petitioner discovers that the delay was intentional, petitioner must notify the Office immediately.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

# 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) |
|---|---|---|---|---|
| 6519474 | 2003-02-11 | 10087675 | 2002-03-01 | I-2-0080.7US |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

| NOT Small Entity | | | Small Entity | | |
|---|---|---|---|---|---|
| | Fee | Code | | Fee | Code |
| ◉ | 3 ½ year | (1551) | ○ | 3 ½ year | (2551) |
| ○ | 7 ½ year | (1552) | ○ | 7 ½ year | (2552) |
| ○ | 11 ½ year | (1553) | ○ | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

| Patent Practitioner | | | |
|---|---|---|---|
| A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature | | | |
| Signature | /Jeffrey M. Glabicki/ | Date (YYYY-MM-DD) | 2007-04-03 |
| Name | Jeffrey M. Glabicki | Registration Number | 42584 |

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

# Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

# UNITED STATES 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. 6519474
Issue Date: February 11,2003
Application No. 10087675
Filed: March 1,2002
Attorney Docket No. I-2-0080.7US

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

This is a decision on the electronic petition, filed April 3,2007 ,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 April 3,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Paper No. 11
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JUN 23 2003

OFFICE OF PETITIONS

Ivor R. Elrifi
Mintz, Levin, Cohn, Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111

| | |
|---|---|
| In re Application of<br>Edinger, et al.<br>Application No. 10/087,684<br>Filed: March 1, 2002<br>Atty. Dkt. No.: 21402-214 CIP<br>(Cura-514<br>Title: PROTEINS AND NUCLEIC<br>ACIDS ENCODING SAME | DECISION REFUSING<br>STATUS UNDER 37 CFR<br>1.47(a) |

This decision is in response to the petition under 37 CFR 1.47(a), filed March 10, 2003.

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 March 1, 2002 without a fully executed oath or declaration. Accordingly, on August 9, 2002, a Notice to File Missing Parts of Nonprovisional Application was filed requiring, *inter alia*, an executed oath or declaration and surcharge.

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

The instant petition lacks item (1) set forth above. Petitioner has failed to establish that the non-signing inventor received the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the oath or declaration.

Petitioner is reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. Petitioner has presented no evidence that the non-

signing inventor was ever presented with a copy of the application papers (specification, claims, drawings, oath or declaration) for the instant application.

Any renewed petition should be accompanied by evidence to sufficiently establish that the non-signing inventor was sent a complete copy of the application papers and thereafter refused to execute the declaration. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney. Petitioner may wish to provide the Office copies of letters sent to the inventor indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

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

| | |
|---|---|
| By mail: | **Mail Stop Petition**<br>Commissioner for Patents<br>P.O. Box 1450<br>Alexandria, VA 22313-1450 |
| By facsimile: | (703) 308-6916 |
| By hand: | Office of Petitions<br>2201 South Clark Place<br>Crystal Plaza 4, Suite 3C23<br>Arlington, VA 22202 |
| By delivery service:<br>(FedEx, UPS, DHL, etc.) | U.S. Patent and Trademark Office<br>2011 South Clark Place<br>Customer Window, **Mail Stop Petition**<br>Crystal Plaza Two, Lobby, Room 1B03<br>Arlington, VA 22202 |

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

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

SC

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

Ivor R. Elrifi
Mintz, Levin, Cohn, Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111

In re Application of
Edinger, et al.
Application No. 10/087,684
Filed: March 1, 2002
Atty. Dkt. No.: 21402-214 CIP
(Cura-514
Title: PROTEINS AND NUCLEIC
ACIDS ENCODING SAME

DECISION REFUSING
STATUS UNDER 37 CFR
1.47(a)

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This decision is in response to the petition under 37 C
1.47(a), filed March 10, 2003.

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 March 1, 2002 without a fully executed oath or declaration. Accordingly, on August 9, 2002, a Notice to File Missing Parts of Nonprovisional Application was filed requiring, *inter alia*, an executed oath or declaration and surcharge.

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

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The instant petition lacks item (1) set forth above. Petitioner has failed to establish that the non-signing inventor received the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the oath or declaration.

Petitioner is reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. Petitioner has presented no evidence that the non-

signing inventor was ever presented with a copy of the application papers (specification, claims, drawings, oath or declaration) for the instant application.

Any renewed petition should be accompanied by evidence to sufficiently establish that the non-signing inventor was sent a complete copy of the application papers and thereafter refused to execute the declaration. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney. Petitioner may wish to provide the Office copies of letters sent to the inventor indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

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

| | |
|---|---|
| By mail: | **Mail Stop Petition**<br>Commissioner for Patents<br>P.O. Box 1450<br>Alexandria, VA 22313-1450 |
| By facsimile: | (703) 308-6916 |
| By hand: | Office of Petitions<br>2201 South Clark Place<br>Crystal Plaza 4, Suite 3C23<br>Arlington, VA 22202 |
| By delivery service:<br>(FedEx, UPS, DHL, etc.) | U.S. Patent and Trademark Office<br>2011 South Clark Place<br>Customer Window, **Mail Stop Petition**<br>Crystal Plaza Two, Lobby, Room 1B03<br>Arlington, VA 22202 |

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

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

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Paper No. 13

Ivor R. Elrifi
Mintz, Levin, Cohn, Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111

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OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of Edinger, et al. | |
| Application No. 10/087,684 | DECISION REFUSING |
| Filed: March 1, 2002 | STATUS UNDER 37 CFR |
| Atty. Dkt. No.: 21402-214 CIP (Cura-514 | 1.47(a) |
| Title: PROTEINS AND NUCLEIC ACIDS ENCODING SAME | |

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed August 25, 2003.

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 March 1, 2002 without a fully executed oath or declaration. Accordingly, on August 9, 2002, a Notice to File Missing Parts of Nonprovisional Application was filed requiring, *inter alia*, an executed oath or declaration and surcharge. A petition under 37 CFR 1.47(a) was filed March 10, 2003 and dismissed June 23, 2003.

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

The instant petition lacks item (4) set forth above. Petitioner has provided what appears to be a business address as the last known address of the non-signing inventor. Ordinarily, the last known address will be the last known residence of the non-signing inventor. In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, inventor's most recent **home** address must be given to enable the Office to communicate directly with the inventor as necessary. See, MPEP 605.02.

Any renewed petition must indicate the proper last known

address of the non-signing inventor.

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

| | |
|---|---|
| By mail: | **Mail Stop Petition**<br>Commissioner for Patents<br>P.O. Box 1450<br>Alexandria, VA 22313-1450 |
| By facsimile: | (703) 308-6916 |
| By hand: | Office of Petitions<br>2201 South Clark Place<br>Crystal Plaza 4, Suite 3C23<br>Arlington, VA 22202 |
| By delivery service:<br>(FedEx, UPS, DHL, etc.) | U.S. Patent and Trademark Office<br>2011 South Clark Place<br>Customer Window, **Mail Stop Petition**<br>Crystal Plaza Two, Lobby, Room 1B03<br>Arlington, VA 22202 |

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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Paper No. 13

Ivor R. Elrifi
Mintz, Levin, Cohn, Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111

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| In re Application of Edinger, et al. | |
| Application No. 10/087,684 | DECISION REFUSING |
| Filed: March 1, 2002 | STATUS UNDER 37 CFR |
| Atty. Dkt. No.: 21402-214 CIP (Cura-514 | 1.47(a) |
| Title: PROTEINS AND NUCLEIC ACIDS ENCODING SAME | |

Done By
☐ Data Entry
☐ Docket Entry 11/5/03
☐ Docket Cross Off 11/5/04 JR
☐ Previously Entered
☐ No Docketing Req.
☐ ELITE
☐ Annuities

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed August 25, 2003.

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 March 1, 2002 without a fully executed oath or declaration. Accordingly, on August 9, 2002, a Notice to File Missing Parts of Nonprovisional Application was filed requiring, *inter alia*, an executed oath or declaration and surcharge. A petition under 37 CFR 1.47(a) was filed March 10, 2003 and dismissed June 23, 2003.

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

The instant petition lacks item (4) set forth above. Petitioner has provided what appears to be a business address as the last known address of the non-signing inventor. Ordinarily, the last known address will be the last known residence of the non-signing inventor. In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, inventor's most recent **home** address must be given to enable the Office to communicate directly with the inventor as necessary. See, MPEP 605.02.

Any renewed petition must indicate the proper last known

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address of the non-signing inventor.

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

| | |
|---|---|
| By mail: | **Mail Stop Petition**<br>Commissioner for Patents<br>P.O. Box 1450<br>Alexandria, VA 22313-1450 |
| By facsimile: | (703) 308-6916 |
| By hand: | Office of Petitions<br>2201 South Clark Place<br>Crystal Plaza 4, Suite 3C23<br>Arlington, VA 22202 |
| By delivery service:<br>(FedEx, UPS, DHL, etc.) | U.S. Patent and Trademark Office<br>2011 South Clark Place<br>Customer Window, **Mail Stop Petition**<br>Crystal Plaza Two, Lobby, Room 1B03<br>Arlington, VA 22202 |

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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Paper No. 15

Ivor R. Elrifi
Mintz, Levin, Cohn, Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111

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OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of | : |
| Edinger, et al. | : DECISION GRANTING |
| Application No. 10/087,684 | : STATUS UNDER 37 CFR |
| Filed: March 1, 2002 | : 1.47(a) |
| Docket No.: 21402-214 CIP | : |
| (Cura-514 | : |
| For: PROTEINS AND NUCLEIC | : |
| ACIDS ENCODING SAME | : |

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed October 6, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventor Denise Lepley has refused to execute the declaration for the above-identified application after having been presented with the application papers.

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

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

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

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DENISE LEPLEY
47 BRIARWOOD ROAD
WEST HARTFORD, CT 06107

In re Application of :
Edinger, et al. :
Application No.: 10/087,684 : LETTER
Filed: March 1, 2002 :
Atty. Dkt. No.: 21402-214 CIP :
(Cura-514 :
For: PROTEINS AND NUCLEIC ACIDS :
ENCODING SAME :

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NOV 0 6 2003

OFFICE OF PETITIONS

Dear Madam:

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

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Daniel M.DeVos
BLAKELY, SOKOLOFF, TAYLOR &
ZAFMAN LLP
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025

MAILED

JAN 2 9 2004

Technology Center 2100

In re Application of: )
Alok Khanna )
Application No. 10/087,704 ) **DECISION ON REQUEST FOR**
Filed: March 1, 2002 ) **WITHDRAWAL AS ATTORNEY**
For: GENERATION AND USE OF RULES )
FOR READING OF DATA FOR
ONLINE ACCOUNT
AGGREGATION

This is a decision on the Request To Withdraw from Representation filed January 15, 2004.

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

The request filed January 15, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: Trey Adhesion Technologies, Inc.
5935 Carnejie Boulevard
Charlotte, NC 28209

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/5/06

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/087715 Patent No.: 7067506

**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**.

**HENRY RANDALL**
Certificates of Correction Branch
**703-308-9390 ext.**

**Thank You For Your Assistance**

---

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

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

Comments: _____

_____

_____

_____

_____

SPE 1624 Art Unit

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:** 11-10-2005

**DATE** : 04/02/08

**TO SPE OF** : ART UNIT 2161

**SUBJECT** : Request for Certificate of Correction on Patent No.: 6961735

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:**

**SPE:** APU MOFIZ SUPERVISORY PATENT EXAMINER — Art Unit 2161

UNITED STATES PATENT AND TRADEMARK OFFICE

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

March 19, 2004

Karl Bozicevic
Bozicevic, Field & Francis LLP
200 Middlefield Road, Suite 200
Menlo Park, CA 94025

In re Application of:
Green, *et al.*
Application No. 10/087,728
Filed: February 28, 2002
For: METHOD AND APPARATUS FOR FILTERING AN OPTICAL BEAM

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 11, 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 October 06, 2003. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot and must be dismissed.

All future communications 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 (571) 272-1596.

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

cc: Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles CA 90025-1030

UNITED STATES DEPARTMENT OF COMMERCE
**Patent and Trademark Office**
Washington, D.C. 20231

In re Application of
OBARA
Serial No.: 10/087,757
Filing Date: March 5, 2002
For: MOTOR

DECISION ON
PETITION
UNDER 37 CFR 1.181

This is a decision on the "PETITION TO THE COMMISSIONER UNDER 37 CFR 1.181" filed January 3, 2003 requesting supervisory review in the above-captioned application.

The petition is **DISMISSED** as moot for the reasons set forth below.

A review of the application file record reveals that the Office Action mailed on July 3, 2002 was defective and has been withdrawn. A new corrected office action will be mailed. The amendment filed on January 3, 2003 has been entered as a supplemental amendment. Since the extension of time filed on January 3, 2003 is not necessary, it will be refunded. In view of the above, applicant's present petition is unnecessary and is therefore, dismissed as moot.

Nestor R. Ramirez, Supervisory Patent Examiner
Technology Center 2800
Physics, Optics, Systems Components,
And Electrical Engineering

Israel Gopstein
P.O. Box 9303
Silver Spring, Maryland 20916-9303

UNITED STATES 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. 110204

ISRAEL GOPSTEIN, Esq.
14301 Layhill Road, Suite 200C
P.O. Box 9303
Silver Spring, MD 20916-9303

NOV 15 2004

In re Application of:
Rikuro Obara
Serial No.: 10/087,757
Filed: March 05, 2002
Attorney Docket No.: **2523-073**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the communication filed December 24, 2003. This communication has been treated as a petition under 37 CFR § 1.181, to withdraw the holding of abandonment. No petition fee is required.

The petition to withdraw the holding of abandonment is **GRANTED.**

The application was held abandoned for the failure to timely file a response to the Office action mailed on May 30, 2003. A Notice of Abandonment was mailed on December 16, 2003.

Petitioner asserts that on December 01, 2003, a response including an amendment was timely filed in the above-identified application. To support this assertion, petitioner has submitted a copy of a 21 page response bearing a certificate under 37 CFR § 1.8(a) showing a date of transmission of December 01, 2003, a copy of an auto-reply facsimile transmission from the PTO facsimile machine which acknowledges satisfactory facsimile transmission of 21 pages to the PTO on December 01, 2003.

A review of the application file reveals the above noted response was not matched with the application file wrapper at the time of mailing of the Notice of Abandonment. The above-identified response filed December 01, 2003, has since been located and matched with the file wrapper.

For the above stated reasons, 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 will be forwarded to the examiner for further examination.

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

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

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

COPY MAILED

AUG 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Masakazu Suzuki et al :
Application No. 10/087,772 : DECISION GRANTING PETITION
Filed: March 5, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 04329.2756 :

This is a decision on the petition, filed July 31, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on June 23, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This matter is being referred to Technology Center AU 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Aug9\087772.wpd

---

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

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Paper No.

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

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JAN 0 5 2007

OFFICE OF PETITIONS

In re Application of :
Suzuki et al. :
Application No. 10/087,772 : LETTER REGARDING
Filed: March 5, 2002 : PATENT TERM ADJUSTMENT
Attorney Docket No. 04329.2756:

This letter is in response to the "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT" filed October 26, 2006. Applicants disclose that the correct patent term adjustment (at the time of the mailing of the notice of allowance) is 696 days, not 753 days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is SIX HUNDRED NINETY-SIX (696) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

Applicants state no basis for their disclosure. Nonetheless, a review of the record reveals that a period of adjustment of 57 days for Office delay was entered in error. Applicants' Request for Continued Examination was entered as filed March 31, 2006, rather than the correct date of July 31, 2006. Use of this incorrect date led to entry of a period of Office delay for taking until September 26, 2006 to mail a Notice of Allowance. As September 26, 2006 is within four months of the correct

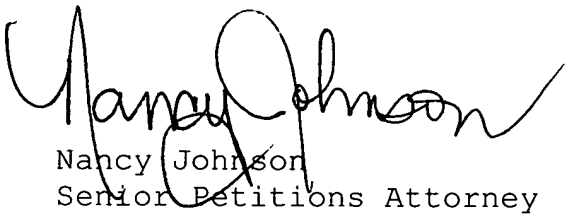
filing date of the RCE of July 31, 2006, there was no Office delay.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is SIX HUNDRED NINETY-SIX (696) days.

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Office of Patent Publication for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Thursday

PALM INTRANET

Date: 1/4/2007
Time: 18:37:17

| PTA Calculations for Application: 10/087772 | | | |
|---|---|---|---|
| Application Filing Date: | 03/05/2002 | PTO Delay (PTO): | 844 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 91 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 696 |
| PTO Delay Adjustment: | -57 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 55 | 01/04/2007 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 57 | |
| 50 | 09/26/2006 | MAIL NOTICE OF ALLOWANCE | 57 | | 43 |
| 49 | 09/25/2006 | ISSUE REVISION COMPLETED | | | |
| 48 | 09/25/2006 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 47 | 09/22/2006 | NOTICE OF ALLOWABILITY | | | |
| 46 | 07/31/2006 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 45 | 07/31/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 44 | 08/04/2006 | DATE FORWARDED TO EXAMINER | | | |
| 43 | 03/31/2006 | REQUEST FOR CONTINUED EXAMINATION (RCE) | | | |
| 42 | 08/04/2006 | DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA) | | | |
| 41 | 08/04/2006 | RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE - WITH ASSIGNED PATENT NO. | | | |
| 40 | 08/04/2006 | WITHDRAWAL PATENT CASE FROM ISSUE | | | |
| 39 | 07/31/2006 | WORKFLOW - REQUEST FOR RCE - BEGIN | | | |
| 38 | 07/31/2006 | PETITION ENTERED | | | |
| 37 | 07/26/2006 | ISSUE NOTIFICATION MAILED | | | |
| 36 | 08/15/2006 | PATENT ISSUE DATE USED IN PTA CALCULATION | | | |
| 35 | 06/30/2006 | FINISHED INITIAL DATA CAPTURE | | | |
| 34 | 07/03/2006 | EXPORT TO FINAL DATA CAPTURE | | | |
| 33 | 07/03/2006 | EXPORT TO FINAL DATA CAPTURE | | | |
| 32 | 07/03/2006 | EXPORT TO FINAL DATA CAPTURE | | | |

| | | | | | |
|---|---|---|---|---|---|
| 31 | 06/30/2006 | DISPATCH TO FDC | | | |
| 30 | 06/30/2006 | APPLICATION IS CONSIDERED READY FOR ISSUE | | | |
| 29 | 06/23/2006 | ISSUE FEE PAYMENT VERIFIED | | | |
| 28 | 06/23/2006 | ISSUE FEE PAYMENT RECEIVED | | | |
| 27 | 04/03/2006 | EXPORT TO INITIAL DATA CAPTURE | | | |
| 26 | 03/31/2006 | MAIL NOTICE OF ALLOWANCE | | | |
| 25 | 03/30/2006 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 24 | 03/21/2006 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 23 | 03/21/2006 | ISSUE REVISION COMPLETED | | | |
| 22 | 03/20/2006 | NOTICE OF ALLOWABILITY | | | |
| 21 | 01/06/2006 | DATE FORWARDED TO EXAMINER | | | |
| 20 | 12/30/2005 | RESPONSE AFTER NON-FINAL ACTION | | 91 | 18 |
| 19 | 12/30/2005 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 18 | 06/30/2005 | MAIL NON-FINAL REJECTION | 787 | | -1 |
| 17 | 06/27/2005 | NON-FINAL REJECTION | | | |
| 16 | 05/11/2005 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 15 | 03/14/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 14 | 04/18/2005 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 13 | 04/08/2005 | CORRESPONDENCE ADDRESS CHANGE | | | |
| 12 | 03/15/2005 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 11 | 09/02/2004 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 10 | 07/21/2004 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 9 | 05/17/2004 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 8 | 02/21/2004 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 7 | 07/12/2002 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 6 | 03/05/2002 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 5 | 03/05/2002 | REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED) | | | |
| 4 | 04/11/2002 | APPLICATION DISPATCHED FROM OIPE | | | |
| 3 | 04/09/2002 | APPLICATION IS NOW COMPLETE | | | |
| 2 | 03/20/2002 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 03/05/2002 | INITIAL EXAM TEAM NN | | | |

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAIL

MAY 17 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005

In re Application of :
Bon-Seuk GOO, et al. : DECISION GRANTING PETITION
Application No. 10/087,777 : TO RESET PERIOD FOR REPLY
Filed: March 5, 2002 :
For: **METHOD FOR TRANSMITTING SHORT MESSAGE USING INTERNET PHONES AND SYSTEM THEREFOR** :

This is a decision on the petition filed on February 28, 2007 (duplicate copy filed April 23, 2007), requesting that the shortened statutory period for reply set forth in the Office communication mailed on January 22, 2007 be reset to run from April 19, 2007, the date on which the Office communication was clarified to the petitioner in a telephone interview.

The petition is **GRANTED.**

Petitioner brought to the attention of the Office a defect in the Office communication mailed on January 22, 2007, specifically that the grounds of rejection were unclear because claims 2, 6, and 10 were indicated as being rejected in both paragraphs 4 and 5 of the Office action under different grounds of rejection. A telephone interview took place on April 19, 2007 in which the examiner clarified that it was a typographical error for claims 2, 6, and 10 to have been listed with claims rejected in paragraph 4 of the Office action. The April 19, 2007 interview summary clarifies that paragraph 4 of the Office action should only have listed claims 1, 5, 9, 13, and 15 as being rejected.

Given that more than one month of the shortened statutory period for response had lapsed before the defect was brought to the Office's attention, the shortened statutory period that was originally set forth in the Office action originally mailed on February 2, 2004 is hereby reset to run TWO MONTHS FROM THE INTERVIEW DATE OF April 19, 2007. See MPEP 710.06.

Krista Zele
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Ross J. Oehler
Avenits Pharmaceuticals Inc.
Route 202-206
Mail Code: D303A
Bridgewater, NJ 08807

COPY MAILED
MAR 1 1 2005
OFFICE OF PETITIONS

In re Application of :
Marie Rosier, et al. :
Application No. 10/087,782 : ON PETITION
Filed: March 5, 2002 :
Attorney Docket No. 03806.0542 :

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**.

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

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

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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OIPE
MAR 1 8 2004
PATENT & TRADEMARK OFFICE
TC154

Paper No.

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OCT 1 4 2003

OFFICE OF PETITIONS

Keating & Bennett LLP
Suite 312
10400 Eaton Place
Fairfax, VA 22030

In re Application of
Yoichi Sawada, et al.
Application No. 10/087,800
Filed: March 5, 2002
Attorney Docket No. 36856.619

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed by facsimile transmission on October 10, 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 22, 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 receipt in the Office of Petitions, the application will be forwarded to Technology Center AU 2817 for further processing of the request for continued examination under 37 CFR 1.114.

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

---

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

OIPE JC154
MAR 18 2004
PATENT & TRADEMARK OFFICE

**CERTIFICATE OF MAILING**

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

Date: March 16, 2004

Sonia V. McVean

PATENT
36856.619

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | |
|---|---|
| In re application of: Yoichi SAWADA et al.<br>Serial No.: 10/087,800<br>Filing Date: March 5, 2002<br>For: SURFACE ACOUSTIC WAVE FILTER DEVICE | Art Unit: 2817<br>Examiner: B. Summons |

REQUEST TO HAVE PREVIOUS ISSUE FEE APPLIED TO NEW ISSUE FEE

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

In response to the decision to grant the petition filed October 10 2003, Applicants hereby request that the Issue Fee and Publication Fee paid on September 17, 2003 be applied to the new Issue Fee, due to be paid on or before April 28, 2004.

Applicants enclose the new Issue Fee Transmittal Form PTOL-85 and attach a copy of the decision on the petition to withdraw the above-identified application from issue after payment of the issue fee, dated October 14, 2003 .

The Commissioner of Patents is authorized to charge any amount due, or credit any overpayment, to Deposit Account No. 50-1353

Respectfully submitted,

Date: March 16, 2004

Attorneys for Applicant

Joseph R. Keating
Registration No. 37,368

Christopher A. Bennett
Registration No. 46,710

**KEATING & BENNETT LLP**
10400 Eaton Place, Suite 312
Fairfax, VA 22030
Telephone: (703) 385-5200
Facsimile: (703) 385-5080

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

#5

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington, DC 20005-3315

**MAILED**

APR 25 2003

Office of the Director
Group 3600

In re application of
Cordell R. Ratzlaff et al.
Application No. 10/087,809 : DECISION ON REQUEST
Filed: March 5, 2002 : FOR WITHDRAWAL OF
For: INTERACTIVE CALENDAR INTERFACE FOR DEFINING AND DISPLAYING DATA RANGES : ATTORNEY

This is a decision on the request filed on November 20, 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 delay in treating this petition is sincerely regretted.

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), a proper reason for withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided. Absent a 3.73(b) statement, the "client" referred to in 37 CFR 10.40 is seen as being those individuals who conferred power upon the attorneys, in this case the inventors.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
(703) 605-0586 (facsimile)

KJD/tpl: 4/22/03

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

COPY MAILED

JAN 21 2005

OFFICE OF PETITIONS

In re Application of :
Kuo-Rong Chen et al :
Application No. 10/087,841 : NOTICE
Filed: March 5, 2002 :
Attorney Docket No. CHEN3340/EM :

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 20, 2006

TO SPE OF : ART UNIT 2141

SUBJECT : Request for Certificate of Correction on Patent No.: 6,954,784 Appl. 10/087,853

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

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

Magdalene Talley

**Thank You For Your Assistance**

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

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

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

**Comments:**

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER

SPE

2141
Art Unit

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:** _____

**DATE** : January 20, 2006

**TO SPE OF** : ART UNIT 2141

**SUBJECT** : Request for Certificate of Correction on Patent No.: 6,954,784 Appl. 10/087,853

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

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

Magdalene Talley

**Thank You For Your Assistance**

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

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

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

**Comments:**

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER

**SPE** 2141 **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

**Steven S. Payne**
**P.O. Box 65024**
**Washington, DC 20035**

COPY MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of :
Sjoblom Hans :
Application No. 10/087,864 : ON PETITION
Filed: March 5, 2002 :
Attorney Docket No. 150-044 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of August 30, 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)(III)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination), with the required fee of $395, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 2181 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**Steven S. Payne**
**P.O. Box 65024**
**Washington, DC 20035**

MAILED

SEP 17 2009

OFFICE OF PETITIONS

In re Application of :
Sjoblom Hans :
Application No. 10/087,864 :
Filed: March 5, 2002 :
Attorney Docket No. 150-044 :

CORRECTED DECISON
ON PETITION

This is a corrected decision on the petition under 37 CFR 1.137(b), filed December 22, 2008, to revive the above-identified application.

The petition decision mailed February 17, 2009 is **VACATED**.

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 file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of August 30, 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)(III)(A)(2).

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

As to item 1, the Information Disclosure Statement (IDS) filed along with the petition to revive on December 22, 2008 is not a proper submission. MPEP 706.07(h)(II) SUBMISSION REQUIREMENT, indicates that an information disclosure statement is not an acceptable submission where the last Office action was a final rejection. Therefore the submission filed with the RCE was not proper and thus the RCE was not an acceptable reply.

A reply to the final Office action was received on March 2, 2007 in the form of a RCE, but it was improper, according to the Office correspondence mailed April 27, 2007.

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

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

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

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

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

Carl Friedman
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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082005

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND OR 97204

AUG 2 6 2005

In re Application of:
David R. Ohm
Serial No.: 10/087,878
Filed: November 7, 2001
For: MONITORING A SEMICONDUCTOR LASER UTILIZING AN INCORPORATED BEAM SPLITTER DEVICE

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed March 3, 2004, to withdraw the holding of abandonment in the above-identified application under 37 CFR § 1.181. No petition fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely file a response to the non-final Office action of October 3, 2003. A Notice of Abandonment was mailed on April 13, 2004.

Petitioner asserts that the non-final Office action mailed October 3, 2004, was not received. To support this assertion, petitioner asserts that a search of the file jacket and docket records indicates that the Office action was not received. Also included is a copy of the docket record where the Office action would have been entered had it been received. It is also asserted that the Office action was not mailed to petitioner's address, former or current, but to an address that was not associated to the instant application.

A review of the written record indicates that the non-final Office action mailed October 3, 2004, was mailed to an address that was different from the address of record. There is no apparent reason why the address of record on filing was changed to the address where the non-final Office action was mailed. It is evident that the non-final Office action was mailed to an incorrect address. As such, the applicant was not duly served notice that a reply to an Office action was due.

For the above stated reasons, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to the applicant is regretted.

The non-final Office action of October 3, 2004 will be remailed. The shortened statutory period for response will be reset to run from the date the action is remailed. Extensions of time are available under 37 C.F.R. § 1.136(a).

Inquiries regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (703) 308-0519.

Janice A. Falcone

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

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| | | |
|---|---|---|
| In re | : | |
| Perkins, et al. | : | DECISION REGARDING |
| Application No. 10/087,897 | : | PATENT TERM ADJUSTMENT |
| Filed: March 1, 2002 | : | |
| Attorney Docket No. 006759.00016 | : | |
| | : | |

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705", filed February 3, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred twenty-nine (229) days to five hundred thirty-three (533)days.

The application for patent term adjustment is **DISMISSED**.

On November 10, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is two hundred twenty-nine (229) days. On February 3, 2006,

Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is five hundred thirty-three (533) days.

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

The Office determined a patent term adjustment of two hundred twenty-nine (229) days based on an adjustment for PTO delay of five hundred thirty-three (533) days pursuant to 35 U.S.C. 154(b)(1)(C)(iii) and 37 C.F.R. § 1.703(b)(4), reduced by Applicants' delays of three (3) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b), and three hundred one (301) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(c)(8). The adjustments of three (3) and three hundred one (301) days are at issue.

A review of the application file reveals that applicants filed an Information Disclosure Statement (IDS) on July 19, 2005, after they had previously filed a Reply Brief on September 21, 2004. § 1.704(d) states that an IDS will not be considered a failure to engage under (c)(8) if it is accompanied by a statement that "each item of information contained in the information disclosure statement was **first** cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by an individual in 1.56(c) more than thirty days prior to the filing" of the IDS.[2] The IDS filed on July 19, 2005 did not contain a proper 37 C.F.R. § 1.704(d) statement, because it lacked the language of "first cited". Accordingly, applicant delay with respect to this filing should have been three hundred one (301) days.

In addition, the adjustment of three (3) days has been reviewed and found to be correct. The record reveals that applicants filed a response to a June 23, 2003 Office action on September 26, 2003. It is true that the response contained a certificate of mailing dated September 23, 2003. However, under 37 C.F.R. § 1.703(f), "the date indicated on any certificate of mailing or transmission shall not be taken into account" in the PTA calculation. See also Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 1239 OG 14 (Oct. 3 2000). Accordingly, the applicant delay of three (3)

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

[2] Emphasis added.

days for the filing of the response on September 26, 2003 was proper.

In view thereof, the correct determination of patent term adjustment at the time of mailing of the Notice of Allowance is **two hundred twenty-nine (229) days.**

Receipt of the fee under 37 C.F.R. § 1.18(e) is acknowledged.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Attorney
Office of Petitions

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| | | |
|---|---|---|
| In re | : | |
| Perkins, et al. | : | DECISION REGARDING |
| Application No. 10/087,897 | : | PATENT TERM ADJUSTMENT |
| Filed: March 1, 2002 | : | |
| Attorney Docket No. 006759.00016 | : | |
| | : | |

This is a decision on the "REQUEST FOR RECONSIDERATION OF APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705", filed April 13, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred twenty-nine (229) days to five hundred thirty (530) days.

The application for patent term adjustment is **DISMISSED**.

On November 10, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is two hundred twenty-nine (229) days.

On February 3, 2006, Applicants timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is five hundred thirty-three (533) days. However, the application for patent term adjustment was dismissed in a decision mailed on March 31, 2006.

The Office determined a patent term adjustment of two hundred twenty-nine (229) days based on an adjustment for PTO delay of five hundred thirty-three (533) days pursuant to 35 U.S.C. 154(b)(1)(C)(iii) and 37 C.F.R. § 1.703(b)(4), reduced by Applicants' delays of three (3) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b), and three hundred one (301) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(c)(8). The adjustment of three hundred one (301) days is at issue.

A review of the application file reveals that applicants filed an Information Disclosure Statement (IDS) on July 19, 2005, after they had previously filed a Reply Brief on September 21, 2004. § 1.704(d) states that an IDS will not be considered a failure to engage under (c)(8) if it is accompanied by a statement that "each item of information contained in the information disclosure statement was **first** cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by an individual in 1.56(c) more than thirty days prior to the filing" of the IDS.[2] The IDS filed on July 19, 2005 did not contain a proper 37 C.F.R. § 1.704(d) statement, because it lacked the word for word language of as required.

With the request for reconsideration, applicants have certified under 37 C.F.R. §1.704(d) that each item of information contained in the July 19, 2005 IDS was first cited in **a** communication from a foreign patent office in a counterpart application and that the communication was not received by an individual in 1.56(c) more than 30 days prior to the filing of the IDS.

Applicants have still not made a proper 1.704(d) statement, because applicants stated that the "IDS was first cited in **a** communication from a foreign patent office", whereas 1.704(d) requires a statement that the "IDS was first cited in **any**

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

[2] Emphasis added.

communication".

In view thereof, the correct determination of patent term adjustment at the time of mailing of the Notice of Allowance is **two hundred twenty-nine (229) days**.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

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

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| | | |
|---|---|---|
| In re | : | |
| Perkins, et al. | : | DECISION REGARDING |
| Application No. 10/087,897 | : | PATENT TERM ADJUSTMENT |
| Filed: March 1, 2002 | : | |
| Attorney Docket No. 006759.00016 | : | |
| | : | |

This is a decision on the "SECOND REQUEST FOR RECONSIDERATION OF APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705", filed June 22, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred twenty-nine (229) days to five hundred thirty (530)days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **five hundred thirty (530) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 10, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is two hundred twenty-nine (229) days. On February 3, 2006, Applicants timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is five hundred thirty-three (533) days. However, the application for patent term adjustment was dismissed in a decision mailed on March 31, 2006.

The Office determined a patent term adjustment of two hundred twenty-nine (229) days based on an adjustment for PTO delay of five hundred thirty-three (533) days pursuant to 35 U.S.C. 154(b)(1)(C)(iii) and 37 C.F.R. § 1.703(b)(4), reduced by Applicants' delays of three (3) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b), and three hundred one (301) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(c)(8). The adjustment of three hundred one (301) days is at issue.

A review of the application file reveals that applicants filed an Information Disclosure Statement (IDS) on July 19, 2005, after they had previously filed a Reply Brief on September 21, 2004. § 1.704(d) states that an IDS will not be considered a failure to engage under (c)(8) if it is accompanied by a statement that "each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by an individual in 1.56(c) more than thirty days prior to the filing" of the IDS.[2] The IDS filed on July 19, 2005 did not contain a proper 37 C.F.R. § 1.704(d) statement.

With the request for reconsideration, applicants have certified under 37 C.F.R. §1.704(d) that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that the communication was not received by an individual in 1.56(c) more than 30 days prior to the filing of the information disclosure statement.

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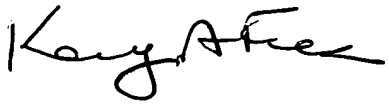
[1] Applicants filed the application for patent term adjustment together with the payment of the issue fee.

[2] Emphasis added.

In view thereof, the correct determination of patent term adjustment is **five hundred thirty (530) days**.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.



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

Enclosure: Copy of Revised PAIR Screen

Day : Monday
Date: 8/21/2006

PALM INTRANET

Time: 14:06:29

| PTA Calculations for Application: 10/087897 | | | |
|---|---|---|---|
| Application Filing Date: | 03/01/2002 | PTO Delay (PTO): | 533 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 304 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 530 |
| PTO Delay Adjustment: | 301 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 75 | 08/21/2006 | ADJUSTMENT OF PTA CALCULATION BY PTO | 301 | | |
| 70.5 | 04/19/2006 | PTA 36 MONTHS | | | |
| 70 | 05/09/2006 | PATENT ISSUE DATE USED IN PTA CALCULATION | | | |
| 69 | 04/13/2006 | PETITION ENTERED | | | |
| 68 | 04/10/2006 | EXPORT TO FINAL DATA CAPTURE | | | |
| 67 | 04/07/2006 | DISPATCH TO FDC | | | |
| 66 | 04/07/2006 | TC RETURN TO PUBS | | | |
| 65 | 03/31/2006 | PETITION DECISION - DISMISSED | | | |
| 64 | 02/22/2006 | PUBS CASE REMAND TO TC | | | |
| 63 | 02/16/2006 | APPLICATION IS CONSIDERED READY FOR ISSUE | | | |
| 62 | 02/03/2006 | ISSUE FEE PAYMENT VERIFIED | | | |
| 61 | 02/03/2006 | PETITION ENTERED | | | |
| 60 | 02/03/2006 | ISSUE FEE PAYMENT RECEIVED | | | |
| 59 | 01/20/2006 | FINISHED INITIAL DATA CAPTURE | | | |
| 58 | 12/13/2005 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 57 | 11/15/2005 | EXPORT TO INITIAL DATA CAPTURE | | | |
| 56 | 11/16/2005 | RECEIPT INTO PUBS | | | |
| 55 | 11/10/2005 | MAIL NOTICE OF ALLOWANCE | | | |
| 54 | 11/09/2005 | ISSUE REVISION COMPLETED | | | |
| 53 | 11/09/2005 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 52 | 11/09/2005 | NOTICE OF ALLOWABILITY | | | |
| 51 | 08/29/2005 | AMENDMENT/ARGUMENT AFTER BPAI DECISION | | | |

| | | | | | |
|---|---|---|---|---|---|
| 50 | 08/29/2005 | REFERENCE CAPTURE ON IDS | | | |
| 49 | 08/29/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 48 | 07/19/2005 | REFERENCE CAPTURE ON IDS | | | |
| 47 | 07/19/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | 301 | 36 |
| 46 | 07/21/2005 | MAIL BPAI DECISION ON APPEAL - REVERSED | 533 | | 26 |
| 45 | 07/21/2005 | BPAI DECISION - EXAMINER REVERSED | | | |
| 44 | 06/17/2005 | CORRESPONDENCE ADDRESS CHANGE | | | |
| 43 | 06/17/2005 | CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA) | | | |
| 42 | 04/27/2005 | DOCKETING NOTICE MAILED TO APPELLANT | | | |
| 41 | 04/27/2005 | ASSIGNMENT OF APPEAL NUMBER | | | |
| 40 | 04/07/2005 | APPEAL AWAITING BPAI DOCKETING | | | |
| 39 | 10/01/2004 | MAIL REPLY BRIEF NOTED BY EXAMINER | | | |
| 38 | 09/30/2004 | REPLY BRIEF NOTED BY EXAMINER | | | |
| 37 | 09/29/2004 | DATE FORWARDED TO EXAMINER | | | |
| 36 | 09/21/2004 | REPLY BRIEF FILED | | | |
| 35 | 09/21/2004 | CORRESPONDENCE ADDRESS CHANGE | | | |
| 34 | 07/15/2004 | MAIL EXAMINER'S ANSWER | | | |
| 33 | 07/12/2004 | EXAMINER'S ANSWER TO APPEAL BRIEF | | | |
| 32 | 04/27/2004 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 31 | 04/27/2004 | DATE FORWARDED TO EXAMINER | | | |
| 30 | 04/08/2004 | APPEAL BRIEF FILED | | | |
| 29 | 08/18/2003 | REFERENCE CAPTURE ON IDS | | | |
| 28 | 09/30/2002 | REFERENCE CAPTURE ON IDS | | | |
| 27 | 02/11/2004 | CORRESPONDENCE ADDRESS CHANGE | | | |
| 26 | 02/05/2004 | NOTICE OF APPEAL FILED | | | |
| 25 | 01/15/2004 | MAIL FINAL REJECTION (PTOL - 326) | | | |
| 24 | 01/14/2004 | FINAL REJECTION | | | |
| 23 | 09/29/2003 | NEW OR ADDITIONAL DRAWING FILED | | | |
| 22 | 11/13/2003 | DATE FORWARDED TO EXAMINER | | | |
| 21 | 09/26/2003 | RESPONSE AFTER NON-FINAL ACTION | | 3 | 19 |
| 20 | 08/18/2003 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 19 | 06/23/2003 | MAIL NON-FINAL REJECTION | | | |
| 18 | 06/18/2003 | NON-FINAL REJECTION | | | |
| 17 | 06/04/2003 | DATE FORWARDED TO EXAMINER | | | |

| | | | | | |
|---|---|---|---|---|---|
| 16 | 05/30/2003 | RESPONSE TO ELECTION / RESTRICTION FILED | | | |
| 15 | 05/30/2003 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 14 | 03/26/2003 | MAIL RESTRICTION REQUIREMENT | | | |
| 13 | 03/24/2003 | REQUIREMENT FOR RESTRICTION / ELECTION | | | |
| 12 | 02/03/2003 | RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION | | | |
| 11 | 09/30/2002 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 10 | 06/26/2002 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 9 | 06/03/2002 | APPLICATION DISPATCHED FROM OIPE | | | |
| 8 | 05/31/2002 | APPLICATION IS NOW COMPLETE | | | |
| 7 | 05/13/2002 | PAYMENT OF ADDITIONAL FILING FEE/PREEXAM | | | |
| 6 | 05/13/2002 | A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC | | | |
| 5 | 04/11/2002 | NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED | | | |
| 4 | 04/11/2002 | CORRESPONDENCE ADDRESS CHANGE | | | |
| 3 | 04/05/2002 | NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED | | | |
| 2 | 03/18/2002 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 03/01/2002 | INITIAL EXAM TEAM NN | | | |

**Search Another: Application#** [ ] Search

**EXPLANATION OF PTA CALCULATION**

**EXPLANATION OF PTE CALCULATION**

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## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 5/22/08

TO SPE OF : ART UNIT 3714

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/087977 Patent No: 7331791 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

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

*VIRGINIA TOLBERT*
**Certificates of Correction Branch**
**703-308-9390 ext. 113**

**Thank You For Your Assistance**

---

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

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

**Comments:** _____

PETER VO
~~SUPERVISORY PATENT EXAMINER~~
TECHNOLOGY CENTER 3700

**SPE** 3714 **Art Unit**

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Paper No. 8

WORLDCOM, INC.
TECHNOLOGY LAW DEPARTMENT
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WASHINGTON, DC 20036

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SEP 13 2002

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In re Application of :
Pierson :
Application No. 10/087,983 : DECISION GRANTING STATUS
Filed: March 5, 2002 : UNDER 37 CFR 1.47(b)
Attorney Docket No. RIC00036 :
For: ELECTRICAL BOX FOR PROVIDING :
ELECTRICAL POWER AND LOW VOLTAGE :
SIGNALS TO A BUILDING :

This is in response to the petition under 37 CFR 1.47(b), filed July 5, 2002 and supplemented September 12, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FORREST L. PIERSON
5927 BUFFRIDGE TRAIL
DALLAS, TX 75252

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SEP 13 2002

OFFICE OF PETITIONS

In re Application of :
Pierson :
Application No. 10/087,983 : LETTER
Filed: March 5, 2002 :
Attorney Docket No. RIC00036 :
For: ELECTRICAL BOX FOR PROVIDING :
ELECTRICAL POWER AND LOW VOLTAGE :
SIGNALS TO A BUILDING :

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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

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

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

CC: WORLDCOM, INC.
TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET NW
WASHINGTON, DC 20036

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JOEL E. PETROW
Smith & Nephew North America
1450 Brooks Road
Memphis TN 38116

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SEP 27 2006

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | DECISION ON |
| Hangody et al. | : | |
| Application No.: 10/087,999 | : | |
| Filing Date: March 5, 2002 | : | PETITION UNDER |
| Docket No.: 00167-367002 | : | |
| For: Cartilage Grafting | : | 37 CFR 1.137(b) |

This is a decision on Petition Under 37 CFR 1.137(b), filed on August 3, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed January 20, 2006, which set a shortened statutory period for reply of three (3) months. The application went abandoned at midnight on July 20, 2006. No Notice of Abandonment was mailed.

Petitioner has met the requirements for revival under §1.137(b). Petitioner submitted the required reply in the form of a Request for Continued Examination (and fee), paid the petition fee, and made the statement that "the entire period of delay was unintentional." This is being construed as a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

This application is being referred to Technology Center 3733 for continued processing.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
*on behalf of*
Office of Petitions
Telephone: 571-272-3283
Facsimile: 571-273-0459

18 JUN 2002

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John E. Carlson
Carlson, Gaskey & Olds, P.C.
400 W. Maple, Suite 350
Birmingham, MI 48009

| | | |
|---|---|---|
| In re Application of | : | |
| MILLINGTON | : | |
| Application No.: 10/088,017 | : | DECISION ON PETITION |
| PCT No.: PCT/US99/09779 | : | UNDER 37 CFR 1.137(b) |
| Int. Filing Date: 05 May 1999 | : | |
| Priority Date: 05 May 1998 | : | |
| Attorney Docket No.: 60314-226 | : | |
| For: NAVIGATION SYSTEM WITH USER INTERFACE | : | |

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

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

A review of the application file reveals that the applicant has now submitted the full, basic national fee of $890.00 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National Stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration and payment of the applicable surcharge is required.

Derek A. Putonen
Attorney-Advisor
PCT Legal Office
Telephone: (703) 305-0130
Facsimile: (703) 308-6459

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02 OCT 2002

#7

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Nixon & Vanderhye
1100 North Glebe Road
8th Floor
Arlington, VA 22201-4714

In re Application of
Hails et al.
Application No. 10/088026
PCT No.: PCT/GB00/03249
Int. Filing Date: 22 August 2000
Priority Date: 15 September 1999
Atty. Docket No.: 124-933
For: New Methods Of Fabricating Devices And Semiconductor Layers Comprising Cadmium Mercury...

DECISION ON

PAPERS UNDER

37 CFR 1.42

This is in response to the papers filed on 03 June 2002, which are being treated under 37 CFR 1.42.

## BACKGROUND

This international application was filed on 22 August 2000, and claimed a priority date of 15 September 1999. The International Bureau transmitted a copy of the published international application to the USPTO on 22 March 2001. A Demand electing the United States was filed before the expiration of 19 months from the priority date. Accordingly, the 30 month time period to file the basic national fee in the U.S. expired as of midnight on 15 March 2002.

On 14 March 2002, applicants filed *inter alia* the basic national fee.

On 22 May 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the filing of an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b).

The instant papers were filed on 03 June 2002.

## DISCUSSION

Inspection of the declaration reveals that it has been signed by "Saamara N. Turney (legal representative)," apparently on behalf of deceased joint inventor John Stevenson. 37 CFR 1.42 provides in part that

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) Of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

> If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

Former § 1.44 required that proof of the authority of the legal representative be submitted. Effective 08 September 2000, § 1.44 was removed and reserved. The requirement to submit proof of legal authority was thereby eliminated. Thus, the signature and accompanying identification of the legal representative is sufficient to establish that the legal representative may make application on behalf of the deceased inventor.

Review of the copy of the declaration filed on 03 June 2002 reveals that it was executed by "Saamara N. Turney (legal representative)," but it does not clearly indicate whether she is acting in the capacity of legal representative *specifically for John Stevenson* in accordance with 37 CFR 1.42. The declaration includes citizenship, residence and post office address information for Saamara Turney, but does not include the citizenship, residence and mailing address of John Stevenson. Moreover, the declaration does not properly identify the specific place of residence of joint inventor Douglas F. Foster (it merely refers to "Fife," presumably a municipality, without specifying the location of Fife). As such, the declaration is not in compliance with 37 CFR 1.497(b)(2). Accordingly, it would not be appropriate to accord the application status pursuant to 37 CFR 1.42 on the basis of the present record.

## DECISION

The papers under 37 CFR 1.42 are **DISMISSED**, without prejudice.

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

Leonard E. Smith

for ~~Richard Cole~~
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

#10

25 NOV 2003

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Nixon & Vanderhye
1100 North Glebe Road
8th Floor
Arlington, VA 22201-4714

In re Application of
Hails et al.
Application No. 10/088026
PCT No.: PCT/GB00/03249
Int. Filing Date: 22 August 2000
Priority Date: 15 September 1999
Atty. Docket No.: 124-933
For: New Methods Of Fabricating Devices And Semiconductor Layers Comprising Cadmium Mercury...

DECISION

UNDER

37 CFR 1.42

This is in response to the papers filed on 08 October 2003.

## DISCUSSION

*Petition Under 37 CFR 1.137(b)*

This application became abandoned with respect to the national stage in the United States for failure to timely reply to the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 22 May 2002. Counsel requests revival of the application pursuant to 37 CFR 1.137(b). A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the required reply in the form of an executed declaration of the inventors accompanies the petition.

Regarding requirement (2), the petition authorized the charging of the petition fee to counsel's Deposit Account.

Regarding requirement (3), the petition includes a statement that "The delay in prosecuting this case (i.e. filing the declaration) was unintentional." This statement is being construed as a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

Accordingly, it would be appropriate to grant the requested relief under 37 CFR 1.137(b).

*Papers Under 37 CFR 1.42*

In a decision mailed on 02 October 2002, counsel's submission under 37 CFR 1.42 was dismissed without prejudice because the declaration filed on 03 June 2002 was executed by "Saamara N. Turney (legal representative)," but it did not clearly indicate whether she was acting in the capacity of legal representative *specifically for John Stevenson* in accordance with 37 CFR 1.42, it did include the citizenship, residence and mailing address of John Stevenson, and it did not properly identify the specific place of residence of joint inventor Douglas F. Foster (it merely refers to "Fife," presumably a municipality, without specifying the location of Fife). The instant renewed petition is accompanied by a newly executed declaration which cures the above-noted defects, and which is acceptable under 37 CFR 1.497(a) and (b). Consequently, it would now be appropriate to grant the requested relief under 37 CFR 1.42.

**DECISION**

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

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

Counsel's Deposit Account No. 14-1140 is being charged in the amount of $1330.00 for the petition fee under 37 CFR 1.137(b), as authorized by the petition.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **08 October 2003**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

12/01/2003 GFREY1 00000002 141140 10088026
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03 OCT 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GUDRUN E. HUCKETT DRAUDT
LONSSTR. 53
WUPPERTAL, GERMANY 42289

| | | |
|---|---|---|
| In re Application of | : | |
| HUGEN, Thomas et al. | : | |
| Application No.: 10/088,029 | : | DECISION |
| PCT No.: PCT/EP00/07612 | : | |
| Int. Filing Date: 05 August 2000 | : | ON PETITION UNDER |
| Priority Date: 11 September 1999 | : | |
| Docket No.: 19943518 | : | 37 CFR 1.137(b) |
| For: COMMINUTING MACHINE | : | |

Applicant's "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 09 December 2004 is **GRANTED**. Applicants included a postcard receipt for the 10 November 2004 submission of a petition to revive for this application and indicate that the instant petition is a copy of the 10 November 2004 submission. The petition is accepted as having been filed on 10 November 2004. The certificate of facsimile transmission does not affect the fees.

Applicant states that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). The appropriate national fee and the petition fee have been charged to deposit account no. 50-1199, as authorized. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a)-(b) has been submitted. Records show that it was received on 14 March 2002. The surcharge for late filing of the oath or declaration will be charged to deposit account no. 50-1199, as authorized. An English translation was also submitted on 14 March 2002. The surcharge for late filing of the English translation will also be charged to deposit account no. 50-1199, as authorized.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 10 November 2004 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4).

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
Facsimile: (571) 273-0459

02 AUG 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

GUDRUN E. HUCKETT DRAUDT
LONSSTR. 53
WUPPERTAL, GERMANY 42289

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|---|---|---|
| In re Application of | : | |
| HUGEN, Thomas et al. | : | |
| Application No.: 10/088,029 | : | DECISION |
| PCT No.: PCT/EP00/07612 | : | |
| Int. Filing Date: 05 August 2000 | : | ON PETITION UNDER |
| Priority Date: 11 September 1999 | : | |
| Docket No.: 19943518 | : | 37 CFR 1.181 |
| For: COMMINUTING MACHINE | : | |

This decision is in response to applicant's "Letter" filed on 28 October 2005. It has been treated as a petition under 37 CFR 1.181.

Applicant claims to be entitled to a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of 24 June 2002, rather than the 10 November 2004 date granted in the 03 October 2005 petition decision.

Applicant claims to have submitted a petition under 37 CFR 1.137(b), accompanied by the required fee authorizations, by facsimile on 24 June 2002. The petition included a certificate of facsimile transmission under 37 CFR 1.8. That submission is not of record.

Under 37 CFR 1.8, an item is only considered timely on its transmission or mailing date. For all other purposes, the actual date of receipt is used. As such, when a response is transmitted under 37 CFR 1.8(b), but is not received after a reasonable period of time, the Office will accept a copy under certain conditions. However, the copy's date of receipt is used for all purposes other than timeliness.

Further, applicant is not entitled to benefit under 37 CFR 1.8, as the application was abandoned and as such, applicant was not responding "within a set period of time."

For the above reasons, applicant's petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

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

Erin P. Thomson

Erin P. Thomson
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22 SEP 2006

GUDRUN E. HUCKETT DRAUDT
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WUPPERTAL, GERMANY 42289

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|---|---|---|
| In re Application of | : | |
| HUGEN, Thomas et al. | : | |
| Application No.: 10/088,029 | : | DECISION |
| PCT No.: PCT/EP00/07612 | : | |
| Int. Filing Date: 05 August 2000 | : | ON PETITION UNDER |
| Priority Date: 11 September 1999 | : | |
| Docket No.: 19943518 | : | 37 CFR 1.181 |
| For: COMMINUTING MACHINE | : | |

This decision is in response to applicant's "2nd Letter Requesting Correction of Application Date" filed on 09 August 2006. It has been treated as a petition under 37 CFR 1.181.

As indicated in the Decision On Petition mailed 02 August 2006, applicant was correctly accorded a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of 10 November 2004 and is not entitled to a date of 24 June 2002.

Applicant claims to have submitted a petition under 37 CFR 1.137(b), accompanied by the required fee authorizations, by facsimile on 24 June 2002. The petition included a certificate of facsimile transmission under 37 CFR 1.8. That submission is not of record.

Under 37 CFR 1.8, an item is only considered timely on its transmission or mailing date. For all other purposes, the actual date of receipt is used. As such, when a response is transmitted under 37 CFR 1.8(b), but is not received after a reasonable period of time, the Office will accept a copy under certain conditions. However, the copy's date of receipt is used for all purposes other than timeliness. The actual date of receipt is 10 November 2004.

Further, applicant is not entitled to benefit under 37 CFR 1.8, as the application was abandoned and as such, applicant was not responding "within a set period of time."

For the above reasons, applicant's petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

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

Erin P. Thomson

Erin P. Thomson
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OFFICE OF PETITIONS

In re Application of :
Adelaide et al. : DECISION ON PETITION
Application No. 10/088,043 :
Filed: June 19, 2002 :
Attorney Docket No. 1418-101 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 20, 2006, to revive the above-identified application.

This application became abandoned for failure to pay the issue fee as required by the Notice of Allowance and Fee(s) Due mailed on June 10, 2005, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on September 11, 2005. A Notice of Abandonment was mailed on December 19, 2005.

Petitioner has met the requirements under 37 CFR 1.137(b). Accordingly, the petition is **granted.**

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

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Arlington, VA 22202

| | | |
|---|---|---|
| In re Application of: | : | |
| ARKINSTALL, Stephen, et al. | : | |
| U.S. Application No.: 10/088,074 | : | DECISION |
| PCT No.: PCT/IB00/01381 | : | |
| International Filing Date: 28 September 2000 | : | |
| Priority Date: 28 September 1999 | : | |
| Attorney's Docket No.: 220243US | : | |
| For: PHARMACEUTICALLY ACTIVE SULFONYL HYDRAZIDE DERIVATIVES | : | |

This decision is issued in response to applicants' "Petition To Withdraw Holding Of Abandonment Based On Timely Filed Responses Filed By Applicant" filed 28 November 2003, and supplemented on 13 July 2004. The petition is treated herein under 37 CFR 1.181. No petition fee is required.

## BACKGROUND

On 28 September 2000, applicants filed international application PCT/IB00/01381 which claimed a priority date of 28 September 1999 and which designated the United States. On 05 April 2001, a copy of the international application was communicated to the United States Patent And Trademark Office (USPTO) by the International Bureau (IB). The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 28 March 2002.

On 20 March 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment for the basic national fee.

On 20 May 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring an executed declaration and a computer readable form (CRF) of the biochemical sequence was required. The Notification identified the application number as 10/088,074.

On 22 July 2002, applicants filed a response to the Notification Of Missing Requirements. The response was incorrectly directed to application number 10/070,474.[1] The

[1] Based on the supplemental submission of 13 July 2004, it appears that this was the number stamped on the return postcard submitted with applicants' original national stage papers.

response included executed declaration materials and it states that the present application does not include a biochemical sequence in its disclosure.

On 29 September 2003, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), indicating that the application was abandoned for failure to file a timely response to the Notification Of Missing Requirements in the present application.

On 28 November 2003, applicants filed the present petition seeking withdrawal of the holding of abandonment based on applicant's 22 July 2002 filing of responsive materials. The petition includes a copy of the materials filed 22 July 2002 and a return postcard itemizing these materials and bearing a USPTO receipt stamp dated 22 July 2002.

On 13 July 2004, applicants filed a supplement to the petition that included a copy of the return postcard received by applicant with respect to the original national stage papers filed on 20 March 2002. This return postcard bears a USPTO stamp with the serial number 10/070,474.

## DISCUSSION

The application file to which applicants' 22 July 2002 response was directed, 10/070,474, contains applicants' submission. These materials bear a 22 July 2002 receipt stamp that confirms the asserted filing date; the documents have been moved to the present application file. A review of these materials confirms that, as noted above, the materials include declaration materials and a statement that no sequence listing is disclosed in the present application (and that requiring a CRF of a biochemical sequence listing is therefore inappropriate here).

As noted above, the response materials filed 22 July 2002 were directed by applicant to the wrong application file (10/070,474). Because applicants took this application number from the return postcard received from the USPTO with respect to the filing of the initial national stage papers, and becuase the response did identify the correct application number on the copy of the Form PCT/DO/EO/905 included therewith, the response will be considered filed in the correct application as of its 22 July 2002 submission date. The submission is therefore considered a timely response to the Notification Of Missing Requirements herein.

The Notification Of Abandonment mailed 29 September 2003, based as it was on applicants' purported failure to file a response to the Notification Of Missing Requirements, is appropriately vacated.

The declaration materials filed 22 July 2002 are not, however, in compliance with 37 CFR 1.497. The six pages of declaration materials submitted appear to be a compilation of more than one copy of the declaration (there are two copies of page "2 of 4" and two copies of page "4 of 4"). Such compilation is impermissible (see MPEP § 201.03: "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration").

## CONCLUSION

Applicants' petition under 37 CFR 1.181 to treat the materials filed on 22 July 2002 in U.S. application number 10/070,474 as having been filed in the present application as a timely response to the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 20 May 2002, is **GRANTED**.

The Notification Of Abandonment (Form PCT/DO/EO/909) mailed 29 September 2003 is hereby **VACATED**.

As discussed above, the declaration filed on 22 July 2002 is not acceptable under 37 CFR 1.497. Applicants have **ONE (1) MONTH** from the mail date of this decision to file a proper oath or declaration acceptable under 37 CFR 1.497. Failure to file a timely and proper response will result in abandonment. **This response period is not extendable**.

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

Boris Milef
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BM/rmr

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26 OCT 2004



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OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT
Fourth Floor
1755 Jefferson Davis Highway
Arlington, VA 22202

| | | |
|---|---|---|
| In re Application of: | : | |
| ARKINSTALL, Stephen, et al. | : | |
| U.S. Application No.: 10/088,074 | : | DECISION |
| PCT No.: PCT/IB00/01381 | : | |
| International Filing Date: 28 September 2000 | : | |
| Priority Date: 28 September 1999 | : | |
| Attorney's Docket No.: 220243US | : | |
| For: PHARMACEUTICALLY ACTIVE SULFONYL HYDRAZIDE DERIVATIVES | : | |

In a decision mailed on 13 September 2004, this Office granted applicants' petition to withdraw the holding of abandonment in the present application. However, the decision noted that the declaration filed by applicants on 22 July 2002 was not acceptable under 37 CFR 1.497. Specifically, the decision stated that declaration materials submitted appeared to be an unacceptable compilation of more than one declaration.

On 13 October 2004, applicants' filed the "Response To Decision" considered herein, with accompanying materials. The Response included complete copies of the declarations executed by the applicants. These declarations comply with 37 CFR 1.497.

This application is being forwarded to the National Stage Processing Branch of the Office Of the Office Of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 13 October 2004.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 272-0459

08 JUL 2002

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ARLINGTON VA 22202

| | | |
|---|---|---|
| In re Application of | : | |
| JORET et al. | : | |
| Application No.: 10/088,089 | : | DECISION ON |
| PCT No.: PCT/FR00/03209 | : | |
| Int. Filing Date: 17 November 2000 | : | PETITION UNDER |
| Priority Date: 17 November 1999 | : | |
| Attorney Docket No.: 219924US2PCT | : | 37 CFR 1.137(b) |
| For: TRANSPARENT SUBSTRATE COMPRISING AN ANTIREFLECTION COATING | : | |

This decision is in response to the "PETITION TO REVIVE UNDER 37 C.F.R. 1.137(b)" submitted by applicants on 21 March 2002.

## BACKGROUND

On 17 November 2000, applicants filed international application PCT/FR00/03209, which claimed a priority date of 17 November 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 25 May 2001. The twenty-month period for paying the basic national fee in the United States expired at midnight on 17 July 2001.

On 21 March 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an English translation of the international application as filed, the processing fee under 37 CFR 1.492(f) for furnishing the English translation later than twenty months from the priority date, and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than twenty months from the priority date.

On 21 March 2002, applicants also filed the instant "PETITION TO REVIVE UNDER 37 C.F.R. 1.137(b)".

## DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;

(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicants submitted the basic national fee for a small entity on 21 March 2002.

As to item (2), applicants submitted the petition fee on 21 March 2002.

With regard to item (3), petitioner has provided the required statement

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

## CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b).

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
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**GREENBLUM & BERNSTEIN, P.L.C.**
**1950 ROLAND CLARKE PLACE**
**RESTON VA 20191**

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MAR 22 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Masanori Nakatsuji et al :
Application No. 10/088,106 :
Filed: March 22, 2002 :
Attorney Docket No. P22106 :

This is a decision on the petition, filed March 21, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

**Petitioner is advised that the issue fee paid on December 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

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

The examiner of Technology Center AU 2614 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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Paper No. _____

Date : March 22, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Masanori Nakatsuji et al
Application No. :10/088,106
Filed :March 22, 2002

The above-identified application has been assigned Patent No. 6,873,375 and an issue date of March 29, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of March 29, 2005:

"All reference to Patent No. 6,873,375 to Nakatsuji et al of Japan for IMAGE DISTORTION CORRECTING DEVICE AND IMAGE DISTORTION CORRECTING METHOD appearing in the Official Gazette of March 29, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara Greene, Crystal Park 3-908

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AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Masanori Nakatsuji et al :
Application No. 10/088,106 :
Filed: March 22, 2002 :
Attorney Docket No. P22106 :

ON PETITION

This is a decision on the petition, filed May 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 June 17, 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 2614 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

27 MAY 2003

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Brian H. Batzli
MERCHANT & GOULD
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of
Roy Neil McHUTCHINSON
PCT No.: PCT/AU01/00844
Application No.: 10/088,181
Int. Filing Date: 13 July 2001
Priority Date: 14 July 2000
Attorney's Docket No.: 3955.117USWO
For: TAMPER PROOF SLIDE COVER CONTAINER

: DECISION ON
:
: PETITION UNDER
:
: 37 CFR 1.47(b)
:

This decision is in response to applicant's "PETITION UNDER 37 CFR 1.47(b)" submitted on 11 December 2002 that seeks the acceptance of the application without the signature of the inventor Roy Neil McHUTCHINSON. Petitioner has submitted the requisite $130 petition fee by check.

## BACKGROUND

On 13 July 2001, applicant filed international application PCT/AU01/00844, which claimed priority of an earlier Australian application filed 14 July 2000. A copy of the international application was transmitted to the United States from the International Bureau on 24 January 2002. No Demand was filed for this application. Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 14 March 2002.

On 14 March 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1). However, no executed declaration or oath was submitted at such time.

On 12 June 2002, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating that "the oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. The notification also indicated that the surcharge for filing the oath or declaration later than 20 months from the priority date as required by 37 CFR 1.492(e) must be filed. The notification set two months from the date of this notice or 22 months from the priority date for the application, whichever is later. Failure to properly respond will result in abandonment."

In an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), applicant filed on 11 December 2002, the following:

1) a petition under 37 CFR 1.47(b);

2) a Declaration And Power of Attorney unsigned;

3) Declaration by Charles Frederick Sharland

4) the required petition fee.

## DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Applicant has satisfied items (1), (2), and (3), and but not items (4) - (6) thus not completing the requirements under 37 CFR 1.47(b).

Applicant has satisfied item (1) since the petition fee has been provided by applicant.

Regarding requirement (2), applicant has provided sufficient evidence that Roy Neil McHutchinson refused to sign the declaration.

Regarding item (3), applicant has stated the last known address of the inventor:

Roy Neil McHutchinson
67 Douglas Avenue
South Perth
Western Australia, 6151, Australia

Regarding item (4) a declaration has not been provided executed by an appropriate officer of company on behalf of the non-signing sole inventor, Mr. McHutchinson.

Regarding item (6) applicant has not presented an adequate showing that the granting of this petition is necessary to preserve the rights of the parties or to prevent irreparable damage.

Regarding item (5) applicant has not submitted proof that applicant has sufficient proprietary interest in the application. Mr. Sharland's statement is not sufficient without corroborating evidence since there is no copy of the assignment (signed assignment by inventor Mr. McHutchinson) provided with this petition.

If the application has been assigned, a copy of the assignment (in the English language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant prior to the date the application is deposited in the Patent and Trademark Office.

When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by affidavit or declaration that those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.

A proprietary interest obtained otherwise than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record. Note MPEP 409.03(f)

Accordingly, it is not appropriate to accord the national stage application status under 37 CFR 1.47(b) at this time.

## CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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Leonard Smith
PCT Legal Examiner
PCT Legal Office

29 JUL 2003

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P.O. Box 2903
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In re Application of
Roy Neil McHUTCHINSON
PCT No.: PCT/AU01/00844
Application No.: 10/088,181
Int. Filing Date: 13 July 2001
Priority Date: 14 July 2000
Attorney's Docket No.: 3955.117USWO
For: TAMPER PROOF SLIDE COVER CONTAINER

: DECISION ON
:
: PETITION UNDER
:
: 37 CFR 1.47(b)
:

This decision is in response to applicant's "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R.1.47(b)" submitted on 15 July 2003 that indicates that Mr. McHutchison has now executed a declaration.

## BACKGROUND

In a decision by this Office dated 27 May 2003, the decision stated that applicant had not satisfied requirements (4)-(6) under 37 CFR 1.47(b). The decision concluded that it was not appropriate to accord national stage application status under 37 CFR 1.47(b) at that time.

On 15 July 2003, petitioner filed this instant renewed petition accompanied, inter alia, by an executed declaration by Mr. Roy Neil McHutchison.

## DISCUSSION

The petition states that the previously uncooperative inventor, Mr. Roy Neil McHutchison, has now executed a declaration. Thus, the declaration is now signed by the sole non-signing inventor.

Accordingly, the declaration submitted on 15 July 2003 complies with 37 CFR 1.497(a) and (b).

## CONCLUSION

The petition under 37 CFR 1.47(b) is **MOOT.**

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The 35 USC 371 date of this application is **15 July 2003**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

Richard Cole
PCT Legal Examiner
PCT Legal Office

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.**:20070919

**DATE** : October 9, 2007

**TO SPE OF** : ART UNIT 2627

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7,130,252

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:** /William Korzuch/ **Art Unit** 2627

05 JUL 2002
UNITED STATES PATENT AND TRADEMARK OFFICE

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JoAnn Villamizar
Patent Department
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Tarrytown, New York 10591-9005

| | | |
|---|---|---|
| In re Application of | : | |
| KOHLER et al. | : | DECISION ON |
| Application No.: 10/088,222 | : | PAPERS UNDER 37 CFR 1.42 |
| PCT No.: PCT/EP00/10043 | : | |
| Int. Filing Date: 12 October 2000 | : | |
| Priority Date: 20 October 1999 | : | |
| Attorney Docket No.: CO/2-22109/A/PCT | : | |
| For: PHOTOINITIATOR FORMULATIONS | | |

This is a response to applicants' declaration which is being treated as a submission under 37 CFR 1.42 filed 18 March 2002.

## BACKGROUND

On 12 October 2000, applicants filed international application PCT/EP00/10043, which claimed a priority date of 20 October 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on14 October 1999. A Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of nineteen months from the priority date.

On 18 March 2002, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and an executed declaration. The declaration was executed by: Michael Beat Aebli; Martin Holer; and Enrst Eckstein as inventors and Vivian Kohler; Inga Kohler; and Antonio Kamran Kohler as legal representatives on behalf of deceased inventor, Manfred Kohler.

## DISCUSSION

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

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration filed 18 March 2002 is executed by Vivian Kohler; Inga Kohler; and Antonio Kamran Kohler as the "legal representative" of the deceased inventor. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 18 March 2002.

## CONCLUSION

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

The application has an international filing date of 12 October 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **18 March 2002**.

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

Boris Milef
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PCT Legal Office

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OFFICE OF PETITIONS

Takeuchi & Takeuchi
200 Daingerfield Road, Suite 202
Alexandria, VA 22314

In re Application of
Kasai
Application No. 10/088,228
Patent No. 6,964,605
Filed: March 19, 2002
Attorney Docket FO201T

: DECISION GRANTING PETITION

This decision is in response to Applicants' "REQUEST FOR RECONSIDERATION UNDER 37 CFR 1.705(d)" timely[1] filed on December 1, 2005 requesting that the Patent Term Adjustment be adjusted from a determination of 0 days to a determination of three hundred and eighty-six (286) days.

Applicants' petition is **GRANTED-in Part.** The Office will *sua sponte* issue a certificate of correction reflecting an adjustment of one hundred and sixty-four (164). The Office will also adjust the PTA calculation reflected in PAIR to reflect this decision.

Applicants argue that the Office erred in asserting not granting applicant 386 days for the Office's failure to issue the application within four months of the payment of the issue fee and all other requirements being satisfied under 37 CFR 1.702(a)(4).

Applicants' argument have been considered and deemed persuasive to the extent noted herein. The Office agrees that applicants' did not receive the correct amount of time for the Office's failure meet the requirement of 37 CFR 1.702(a)(4). The Office notes that the issue fee was paid on June 24, 2005 and the Office issued the application on November 15, 2005, a three hundred and eighty-seven (387) day Office delay.[2] The Office erred in recording that the issue fee was paid on October 06, 2005 rather than the actual date of June 24, 2005. Accordingly, the Office erred in assessing applicants 440 days of delay and not providing applicants 387 days of Office delay. Applicant's delay in payment of the issue fee was one day not 440. Accordingly, only one day of reduction under 1.704(b) occurred for the submission of the issue fee payment. In addition, applicant did delay on two other occasions under 37 CFR 1.704(b) by periods of 28

[1]Patent Issue on November 15, 2005.

[2]Applicants measured the delay at 386 days.

and 92 days. In addition, applicants delayed by a period of one hundred and two (102) days under 37 CFR 1.704(c)(10). Accordingly, overall the correct determination at the time of the mailing of the notice of issuance of the patent is 387-223 = 164 days

Applicants have one month to respond to this decision. If applicants fail to respond within thirty (30) days, the Office will *sua sponte* issue a certificate of correction.

After mailing of this decisions and the elapse of thirty days from the mail date, this application will be forwarded to the certificate of correction branch for a prompt issuance of a certificate of correction.

The Office acknowledges the receipt of $200.00 for the application for patent term adjustment (petition). No additional fees are required by the Office.

Any questions concerning the issuance of this patent should be directed to Kery A. Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted Pair Calculation
Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT : 6,964,605 B2

DATED : Nov. 15, 2005

INVENTOR(S) : Kasai 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 (0) days

Delete the phrase "by 0 days" and insert – by 164 days--

18 JUN 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Douglas J. Christensen
Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South Eighth Street
Minneapolis, MN

| | | |
|---|---|---|
| In re Application of | : | |
| BORES, et al. | : | DECISION ON |
| Application No.: 10/088,237 | : | |
| PCT No.: PCT/US00/18511 | : | PETITION UNDER |
| Int. Filing Date: 06 July 2000 | : | |
| Priority Date: 08 July 1999 | : | 37 CFR 1.137(b) |
| Attorney Docket No.: 2267.507WOUS | : | |
| For: TRANSPORT MODULE WITH LATCHING DOOR | : | |

The petition to revive under 37 CFR 1.137(b) filed 18 March 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full U.S. Basic National Fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

As authorized, the $130.00 surcharge for providing an oath or declaration later than thirty months from the earliest claimed priority date will be deducted from Deposit Account No.: 16-0631.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **18 March 2002**.

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

#9
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

JUN 16 2004

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JUN 16 2004

OFFICE OF THE DIRECTOR
TC 3600

GROSSMAN, TUCKER, PERREALT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

In re Application of :
Theodor Stangier et al. :
Application No. 10/088,239 :
Filed: March 18, 2002 :
For: BEARING DEVICE :

**DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT**

This is in response to the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on March 12, 2004.

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

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____.
and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

☒ Originally sent response filed November 17, 2003 has been found and matched with the application.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response and then to the examiner for prompt action.

KJD/mjz: 6/3/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

31 DEC 2002

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Robert M. Angus
WESTMAN, CHAMPLIN & KELLY
Suite 1600 - International Centre
900 Second Avenue South
Minneapolis, MN 55402-3319

| | | |
|---|---|---|
| In re Application of | : | |
| HELARD, Jean-Francois | : | |
| PCT No.: PCT/FR00/02555 | : | DECISION ON REQUEST |
| U.S. Application No.: 10/088,284 | : | UNDER 37 CFR 1.497(d) |
| International Filing Date: 14 September 2000 | : | |
| Priority Date: 14 September 1999 | : | |
| Attorney's Docket No.: F40.12-0004 | : | |
| For: METHOD FOR EQUALISATION IN RECEIVERS USING A COMBINATION OF MODULATION TECHNIQUES WITH MULTIPLE CARRIERS AND WITH MULTIPLE ACCESS BY CODE DIVISION | : | |

This decision is issued in response to the "Petition For Correction Of Inventorship Under 37 CFR 1.47(d)" filed 13 August 2002, which has been treated as a request under 37 CFR 1.497(d) to correct inventorship. Applicants have paid the required fee.

## BACKGROUND

On 14 September 2000, applicants filed international application PCT/FR00/02555 which designated the United States. On 22 March 2001, a copy of the international application was communicated to the USPTO by the International Bureau ("IB").

On 23 February 2001, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the international filing date. As a result, the deadline for submission of the basic national fee was extended to expire thirty months from the international filing date, i.e., 14 March 2002.

On 13 March 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 30 May 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements indicating that an oath or declaration in compliance with 37 CFR 1.497, the $130 surcharge for filing the declaration after the thirty month deadline, a proper translation of the international application (and specifically, the drawings therein), and the $130 processing fee for filing the translation after the thirty month deadline, were required. The Notification also informed applicants that the failure to submit a proper response within two months of the date of the Notification would result in abandonment of the application.

On 13 August 2002, applicants filed a "Response To Notice Of Missing Requirements" which included the petition considered herein. The petition seeks to add an additional inventor not named on the international application, Jean-Yves Baudais, asserting that Mr. Baudais was omitted from the international application without any deceptive intent. The petition is treated below under 37 CFR 1.497(d).

It is noted that the 13 August 2002 submission also included a separate page described as an "English Translation Of Figures." However, as discussed below, this translation is not in an acceptable form.

## DISCUSSION

### A. Request Under 37 CFR 1.497(d)

The petition to correct inventorship seeks to add Jean-Yves Baudais as an inventor. The petition asserts that this correction is appropriate because Mr. Baudais was incorrectly left off the international application, and this error occurred without deceptive intent.

37 CFR 1.497(d) states:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17(I); and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).

Here, as noted above, the declaration filed on 13 August 2002 names an inventive entity different from that set forth in the international application. Specifically, it includes one inventor (Jean-Yves Baudais) who was not listed as inventor on the international application. Accordingly, before the declaration filed on 13 August 2002 can be accepted, applicants must submit the materials set forth in 37 CFR 1.497(d).

A review of the materials filed by applicants' on 13 August 2002 reveals that this submission does not satisfy all the requirements of 37 CFR 1.497(d). Specifically, item (3) has not been satisfied. Applicants state in the attached "Consent" form that the corporate assignees consent to the addition of Mr. Baudais as an inventor. However, the consent is not in the form required by 37 CFR 3.73(b) (see MPEP § 324). Specifically, the submission is not accompanied by a copy of the recorded assignment, nor does it contain a specific reference to where this assignment can is located (i.e., reel and frame number).

Before the declaration filed on 13 August 2002 may be accepted as complying with 37 CFR 1.497, applicants must submit the written consent of the assignee in the form set forth in 37 CFR 3.73(b), as required by 37 CFR 1.497(d)(3).

Because applicants have failed to satisfy all the requirements of 37 CFR 1.497(d), the request to correct inventorship cannot be granted at this time. The declaration filed on 13 August 2002 is therefore defective under 37 CFR 1.497 for failure to properly identify all the inventors currently on record for this application.

**B. Translation Of Drawings**

As noted above, applicants have submitted a separate page containing a translation of language contained in the drawings. However, this translation is not in an acceptable format (i.e., new drawings or translations pasted directly over the foreign text in the drawings; see PCT Rule 49.5(d)). Accordingly, applicants 13 August 2002 submission did not satisfy the requirement that a complete translation of the international application be submitted.

## CONCLUSION

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

The declaration filed on 13 August 2002 is defective. In order to make the change of inventorship required to render the declaration acceptable, applicants must submit the materials required by 37 CFR 1.497(d), as discussed above.

In addition, applicants' 13 August 2002 submission failed to satisfy the translation requirement with respect to the drawings in the international application. Applicants must submit new drawings containing the English translation of the language thereon, as discussed above.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Failure to file a timely and proper response will result in abandonment of the application.

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

Richard M. Ross
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PCT Legal Office
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#7

07 JUL 2003

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Suite 1600 - International Centre
900 Second Avenue South
Minneapolis, MN 55402-3319

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|---|---|
| In re Application of | |
| HELARD, Jean-Francois, et al. | |
| PCT No.: PCT/FR00/02555 | DECISION ON |
| U.S. Application No.: 10/088,284 | RENEWED REQUEST |
| International Filing Date: 14 September 2000 | UNDER 37 CFR 1.497(d) |
| Priority Date: 14 September 1999 | |
| Attorney's Docket No.: F40.12-0004 | |
| For: METHOD FOR EQUALISATION IN RECEIVERS USING A COMBINATION OF MODULATION TECHNIQUES WITH MULTIPLE CARRIERS AND WITH MULTIPLE ACCESS BY CODE DIVISION | |

In a decision mailed by this Office on 31 December 2002, applicant's request to add Jean-Yves Baudais as an inventor was dismissed without prejudice for failure to satisfy all the requirements of 37 CFR 1.497(d). Specifically, applicant had not provided the consent of the assignee in the proper form, as required under 37 CFR 1.497(d)(3). In addition, the decision noted that applicant had not submitted the translation of the drawings in the required form.

On 24 February 2003, applicants filed the "Response To Decision On Request Under 37 CFR 1.497(d)" considered herein as a renewed request to correct inventorship. The renewed request was accompanied by a document in which the joint assignees consent to the change in inventorship, a copy of the assignment document, and translated drawings.

The assignment and assignee consent document satisfy the requirements of 37 CFR 1.497(d)(3). Applicants have therefore now satisfied all the requirements of 37 CFR 1.497(d).

The request under 37 CFR 1.497(d) is **GRANTED**. Jean-Yves Baudais is added as an inventor.

Based on this change in inventorship, the declaration filed 13 August 2002 is acceptable in compliance with 37 CFR 1.497.

The translated drawings included in the 24 February 2003 submission are in the proper format.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accord with this decision. The 35 U.S.C. 371 date is 24 February 2003.

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26 NOV 2002
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Michael J. Striker
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103 East Neck Road
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In re Application of :
LEUTHNER, Stephan *et al* :
Application No.: 10/088,285 :
PCT No.: PCT/DE01/02162 : **DECISION**
Int. Filing Date: 09 June 2001 : **UNDER**
Priority Date: 21 July 2000 : **37 CFR 1.182**
Attorney Docket No.: 2026 :
For: APPARATUS FOR TRANSFERRING HEAT :

This decision is in response to applicants' "Response to Notification of Missing Requirements under 35 USC 371" ("Pet.") filed on 14 August 2002 which is treated as a petition pursuant to 37 CFR 1.182.

## BACKGROUND

On 20 May 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating that the oath/declaration submitted with the national stage papers was not in compliance with 37 CFR 1.497(a) and (b) because the second inventor's last name was listed on the declaration differently than recorded on the international application.

On 14 August 2002, applicants provided the instant response which was accompanied by, *inter alia*, a copy of a marriage certificate for the second inventor with an accompanying English translation and authorization to charge any required fees to Deposit Account No. 19-4675.

## DISCUSSION

Applicants submitted a declaration with the national stage papers on 14 March 2002 where the second named inventor signed her name as Petra Kanters. A review of the underlying international application reveals that the inventor is listed as Petra Beil on the international publication ("WO 02/08680").

Section 605.04(c) of the Manual of Patent Examining Procedure (MPEP) states that "[i]n cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182 . . . The petition must include an

appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order." Consequently, the instant response has been treated as a petition under 37 CFR 1.182. The petition fee of $130.00 and one month extension fee of $110.00 have been charged to Deposit Account No. 19-4675 as authorized.

In this petition, applicants claim that "Petra Beil, married Johannes Kanters on September 20, 2001 and she took her husband's name at that time. Accordingly, there is no inconsistently between the names of this inventor." Pet. at ¶ 3. The petition included a copy of a marriage certificate between Petra Beil and Johannes Kanters dated 20 September 2001 with the instant petition. A verified English translation was also submitted. A review of the marriage certificate confirms that Petra Beil was married to Johannes Kanters and appropriately changed her name to Petra Beil. This evidence is sufficient to meet the requirements of the MPEP.

Accordingly, the declaration filed 14 March 2002 now complies with the requirements of 37 CFR 1.497(a) and (b).

## CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 09 June 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **14 March 2002**.

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

James Thomson
Attorney Advisor
PCT Legal Office

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Suite 910
New York, NY 10017

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OFFICE OF PETITIONS

In re Application of:
MULLER, Karl-Friedrich, et al.
Application No.: 10/088,286
Filing Date: June 21, 2002
Attorney's Docket No.: HM-480PCT
For: DEVICE FOR RAISING AND WITHDRAWING A BACK-UP ROLL BEARING UNIT

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 May 09, 2005.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed February 11, 2004, which set a shortened statutory period of reply of three (3) months. On May 14, 2004, applicants filed an Amendment in response to the final Office Action. However, as indicated in the Advisory Action mailed July 16, 2004, the Amendment was not sufficient to place the application in condition for allowance. Accordingly, the application was abandoned as of midnight on May 11, 2004.

On May 09, 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 May 14, 2004 satisfies the submission requirement of 37 CFR 1.114). Accordingly, the reply to the final Office action of February 11, 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 3725

Telephone inquiries concerning this decision should be directed to Richard M. Ross at (571) 272-3296 or, in his absence, the undersigned at (571) 272-3217.

Frances Hicks for

Brian Hearn
Petitions Examiner
Office Of Petitions

31 MAR 2003

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WASHINGTON, D.C. 20231
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Bruce E. Peacock, Esq.
BIEBEL & FRENCH
35 East First Street
Dayton, Ohio 45402

| | | |
|---|---|---|
| In re Application of | : | DECISION |
| Clinton W. Pike et al | : | |
| Application No.: 10/088,291 | : | |
| PCT No.: PCT/US00/25907 | : | ON PETITION |
| Int. Filing Date: 21 September 2000 | : | |
| Priority Date: 24 September 1999 | : | |
| Attorney's Docket No.: ASH 116 P2 | : | UNDER 37 CFR 1.47(a) |
| For: MASONRY, MORTAR, AND STUCCO CEMENT COMPOSITIONS | : | |

This decision is in response to applicant's "PETITION UNDER 37 CFR §1.47(a)" filed on 29 July 2002 to accept the above-captioned application without the signature of the non-signing joint inventor- Clinton W. Pike. The requisite $130 petition fee has been charged to petitioner's Deposit Account No.: 02-2262.

## BACKGROUND

On 21 September 2000, applicant filed international application PCT/US00/25907, which claimed an earliest priority date of 24 September 1999. A copy of the international application was transmitted to the United States from the International Bureau on 05 April 2001. A Demand electing the US was filed within 19 months from the priority date.

On 14 March 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). No executed oath or declaration was submitted at such time.

On 22 May 2002, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance 37 CFR 1.497(a) and (b) is required. The notification set two months time limit or 32 months from the priority date for the application, whichever is later to respond.

## DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Applicants have satisfied requirements (1), (3), and (4) of 37 CFR 1.47(a). However, requirement (2) has not been satisfied.

Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

> "...Where a refusal of the inventor to sign the application paper is alleged, the circumstances of the refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated 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 nonsigning inventor for signature.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration."

In this case, it has not been sufficiently demonstrated that a copy of the application papers were presented to the nonsigning inventor. Petitioner asserts that a declaration was first sent to Mr. Pike on 12 March 2002 and a second and final attempt to obtain his signature was made on 29 May 2002 and that the declaration was not returned. The documents forwarded to Mr. Pike, however, did not include a copy of the application papers (specification, including claims, drawings, and oath or declaration) as required under MPEP 409.03(d).

Accordingly, the current record does not support the premise that Mr. Pike' conduct constitutes refusal because a *bona fide* attempt was not made to present a copy of the application papers (specification, including claims, drawings and declaration) to Mr. Pike for his signature.

Consequently, the petition does not include sufficient proof that Mr. Pike refused to sign the required document.

## CONCLUSION

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

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time are available under 37 CFR 1.136(a).

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

Applicant is advised that, effective May 1, 2003, the Office is changing its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
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PCT Legal Office

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Leonard Smith
PCT Legal Examiner
PCT Legal Office

18 MAR 2004

#17

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Dayton, Ohio 45402

| | | |
|---|---|---|
| In re Application of | : | DECISION ON |
| Clinton W. Pike et al | : | |
| Application No.: 10/088,291 | : | |
| PCT No.: PCT/US00/25907 | : | RENEWED PETITION |
| Int. Filing Date: 21 September 2000 | : | |
| Priority Date: 24 September 1999 | : | |
| Attorney's Docket No.: ASH 116 P2 | : | UNDER 37 CFR 1.47(a) |
| For: MASONRY, MORTAR, AND STUCCO CEMENT COMPOSITIONS | : | |

This is in response to the "REQUEST FOR RECONSIDERATION" allegedly filed on 29 May 2003, which is being treated as a renewed petition under 37 CFR 1.47(a).

## BACKGROUND

In a decision from this Office on 31 March 2003, the initial petition under 37 CFR 1.47(a) was dismissed. The decision stated it had not been sufficiently demonstrated that a copy of the application papers were presented to the nonsigning inventor.

On 29 May 2003, petitioner submitted a "Request for Reconsideration" requesting reconsideration of the Office's decision of 31 March 2003 with respect to accepting the above application without the signature of nonsigning inventor Mr. Pike. Filed with the renewed petition is a copy of the April 22, 2003, May 13, 2003 cover letters mailed to Mr. Pike and his response to the cover letters of May 15, 2003.

## DISCUSSION

**37 CFR 1.181:**

Petitioner's present petition is accompanied by a copy of the following documents, filed purportedly with the PTO as indicated in the hand-carry stamped postcard:

(1) Renewed Petition
(2) Request for Reconsideration

The postcard lists the above items and bears a USPTO date of stamp as 29 May 2003.

MPEP 503 provides:

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

Petitioner's postcard is accepted as *prima facie* that the renewed petition and Declaration were deposited with the U.S. Patent and Trademark Office on 29 May 2003.

## DECISION

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

**37 CFR 1.47(a):**

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

The renewed petition of 29 May 2003 has satisfied requirement 2 under 37 CFR 1.47(a). Thus satisfying all the requirements under 37 CFR 1.47(a). Mr. Peacock's averments do sufficiently demonstrate that a *bona fide* attempt was made to obtain the signature of Mr. Pike and that he refused to sign the required papers. An unsigned Declaration and the application was to Mr. Pike on April 22, 2003 and May 13, 2003 and that Mr. Pike refused the declaration as evidenced by his response of May 15, 2003.

Petitioner has now satisfied items (1), (2), (3), and (4) under 37 CFR 1.47(a), thus completing the requirements under 37 CFR 1.47(a).

## CONCLUSION

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

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **29 July 2002.**

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371.

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Leonard Smith
PCT Legal Examiner
PCT Legal Office

18 MAR 2004

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18 MAR 2004

Cliton W. Pike, Sr.
15611 Stablebrook Circle
Cypress, Texas 77429

In re Application of
Clinton W. Pike et al
Application No.: 10/088,291
PCT No.: PCT/US00/25907
Int. Filing Date: 21 September 2000
Priority Date: 24 September 1999
Attorney's Docket No.: ASH 116 P2
For: MASONRY, MORTAR, AND STUCCO CEMENT COMPOSITIONS

Dear Mr. Pike:

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

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.47(a) and (b).

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Bruce E. Peacock, Esq.
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19 MAR 2004

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# OFFICIAL GAZETTE NOTICE

## 37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Bruce E. Peacock) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.47(a) and (b). The international application number is PCT/US00/25907 and was filed on 21 September 2000 in the name of Clinton W. Pike and Daivd H. Nordmeyer for the invention entitled MASONRY, MORTAR, AND STUCCO CEMENT COMPOSITIONS. The national stage application number is 10/088,291 and has a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of 29 July 2002.

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Mailed: 10/14/05

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Paper Number _____

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| In re application of | : | |
| Pike et al. | : | DECISION ON |
| Serial No. 10/088,291 | : | PETITION |
| Filed: July 29, 2002 | : | |
| For: MANSONRY, MORTAR, AND STUCOO CEMENT COMPOSITIONS | : | |

This is a response to the PETITION UNDER RULE 181(a) TO WITHDRAW NOTICE OF ABANDONMENT, filed June 13, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed March 14, 2005 be withdrawn since the applicant did not receive the NOTICE OF ALLOWANCE letter mailed November 1, 2004.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114). A review of the petitioner's evidence indicates that the request has merit. The evidence presented is sufficient to establish that the applicant or any authorized representative of the applicant did not receive the NOTICE OF ALLOWANCE AND FEE(S) DUE letter mailed November 1, 2004. The evidence provided includes a statement by the petitioner that the Office letter mailed November 1, 2004 was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office letter mailed November 1, 2004 was not received. Also provided is a copy of the attorney's application docket records where the Office letter mailed November 1, 2004 would have been posted had it been timely received.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt re-mailing of the NOTICE OF ALLOWANCE AND FEE(S) DUE letter originally mailed November 1, 2004 and restarting of the period of response from the re-mail date thereof. The change of address filed March 30, 2004 will be entered by the technical staff.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

WEGMAN HESSLER & VANDERBURG
6055 Rockside Woods Blvd., Suite 200
Cleveland, Ohio 44131

UNITED STATES PATENT AND TRADEMARK OFFICE

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED

JUL 20 2009

OFFICE OF PETITIONS

In re Patent No. 6,860,322 :
Issue Date: March 1, 2005 :
Application No. 10/088,303 : ON PETITION
Filed: July 20, 2002 :
Attorney Docket No. 154.1050 :

This is a decision on the petition under 37 CFR 1.378(c), filed April 30, 2009,as shown by petitioner's postcard receipt, and resubmitted on May 15, 2009, to accept the unintentionally delayed payment of the 3 ½ year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on March 2, 2009 for failure to pay the 3 ½ 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 the undersigned at (571)272-3230.

The patent file is being forwarded to Files Repository.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

## CLAIMS

1. A portable cellular telephone, comprising means for performing subscriber interface functions (12, 13, 14, 15) and a transmitting and receiving section (17, 24) for a cellular telephone network (31), the means for performing subscriber interface functions (12, 13, 14, 15) being gathered in a first part (11) of said portable cellular telephone, whereas the transmitting and receiving section (17, 24) for a cellular telephone network (31) is in a second part (16) of said portable cellular telepone, said first (11) and second part (16) being in bidirectional communication with each other when separated, characterized in that said first part comprises means for wireless communicating with a further station or network (22, 32).

2. A portable cellular telephone, according to claim 1, characterized in that the wireless bidirectional communication occurs by radio.

3. A portable cellular telephone, according to claim 2, characterized in that said first part (11) and second part (16) are assembled together releasable from each other.

4. A portable cellular telephone, according to claim 3, characterized in that when said parts are assembled, wireless bidirectional communication is replaced by a direct transmission through an electric connection that establishes upon mutual assembly of said first part (11) and said second part (16).

5. A portable cellular telephone, according to claim 4, characterized in that the second part (16) comprises a connector (22) for the reception and transmission of digital data through the cellular network (31).

6. A portable cellular telephone, according to claim 1, characterized in that the wireless communicating means of the first part (11) consist of an infrared connection (23).

7. A portable cellular telephone, according to claim 1, characterized in that said infrared connection (23) puts the first part (11) in communication with a computer (22).

8. A portable cellular telephone, according to claim 1, characterized in that said wireless communicating means of the first part (11) consist of a short distance connection with the station or network (32).

9. A portable cellular telephone, according to claim 1, characterized in that said wireless communicating meanns of the first part (11) consist of the standard radio link utilized for the bidirectional communication with the second part (16).

10. A portable cellular telephone, according to claim 1, characterized in that said first part (11) comprises a SmartCard connector (29) and or Multimedia Card connector (30).

11. A portable cellular telephone, according to claim 1, characterized in that said means for performing subscriber interface functions (12, 13, 14, 15) comprise a keyboard, a display and audio functions.

12. A portable cellular telephone, according to claim 1, characterized in that it comprises FM radio functions and/or MP3 audio decoder functions and/or Voice Memo and Dialling and/or Wap Browser functions.

13. A communication system with telematic services supplied by telecommunication stations and/or networks, which provides utilization of subscriber terminals for information exchange with said telecommunication stations or networks, characterized in that as a subscriber terminal it uses a portable cellular telephone comprising means for performing subscriber interface functions (12, 13, 14, 15), a transmitting and receiving section (17, 24) for a cellular telephone network (31), said means for performing subscriber interface functions (12, 13, 14, 15) being gathered together in a first part (11) of said portable cellular telephone, whereas the transmitting and receiving section (17, 24) for a cellular telephone network (31) is in a second part (16) of said portable cellular telephone, said first part (11) and second part (16) being in wireless bidirectional commnication to each other when they are separated, and that said first part comprises wireless means (23) for communicating with a further station or network (22, 32), said system comprising at least one of the telecommunication stations or networks (32) apt to communicate directly and wireless with said wireless communicating means (23).

14. A communication system with telematic services supplied by telecommunication stations and/or networks, according to claim 13, characterized in that the station or telecommunication network (22, 32) is a company internal communication station or network and/or a station or network for enabled customers.

15. A communication system with telematic services supplied by telecommunication stations and/or networks, according to claim 14, characterized in that said company internal telecommunication station or network and/or station or network for enabled customers is a bank services network.

16. A communication system with telematic services supplied by telecommunication stations and/or networks, according to claim 13, characterized in that said telecommunication station or network (22,32) is an internal household communication station or network.

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JJGJR.: 08-06

Paper No: __

VIDAS, ARRETT
& STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA MN 55343-9185

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AUG 17 2006

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Siemens | : | |
| Application No. 10/088,372 | : | DECISION |
| Filing Date: 12 March, 2002 | : | |
| Attorney Docket No.: P68.2-10455 | : | |

This is a decision on the petition filed on 11 April, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

## BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due and Notice of Allowability mailed on 28 May, 2004, with reply due absent extension of time on or before 30 August, 2004;

- the instant application went abandoned after midnight 30 August, 2004;

- the Office mailed a Notice of Abandonment on 23 February, 2006;
- on 11 April, 2006, Petitioner filed the instant petition (with fee) and the reply in the form of fees due, and made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

**§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.**
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

## STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt,[7] and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

---

[2] 35 U.S.C. §133 provides:
**35 U.S.C. §133 Time for prosecuting application.**
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

The record (including the petition filed on 11 April, 2006) does not necessitate a finding that the delay between midnight 30 August, 2004 (date of abandonment), and 11 April, 2006 (date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner Siemens and Counsel James Urzedowski (Reg. No. 48,596) when accepting Petitioners' representation that the delay in filing the response was unintentional.[9]

It appears that Petitioner has satisfied the requirements of the regulation.

## CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to Publications Branch to be processed into a patent in due course.

[9] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[10] The regulations at 37 C.F.R. §1.2 provide:

**§1.2 Business to be transacted in writing.**

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

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**BASF CORPORATION**
**ANNE GERRY SABOURIN**
**26701 TELEGRAPH ROAD**
**SOUTHFIELD MI 48034-2442**

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JUL 21 2004

OFFICE OF PETITIONS

In re Application of :
Ines Mangels et al :
Application No. 10/088,376 : ON PETITION
Filed: March 11, 2002 :
Attorney Docket No. IN-5562 :

This is a decision on the petition, filed July 14, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

**Petitioner is advised that the issue fee paid on April 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

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

The examiner of Technology Center AU 1714 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

12 JUL 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

#3

Jason D. Voight
Keil & Weinkauf
1101 Connecticut Avenue, N.W.
Washington, D.C. 20036

| | | |
|---|---|---|
| In re Application of | : | |
| GRUTKE, et al. | : | DECISION ON |
| Application No.: 10/088,407 | : | |
| PCT No.: PCT/EP00/08913 | : | PETITION UNDER |
| Int. Filing Date: 12 September 2000 | : | |
| Priority Date: 13 September 1999 | : | 37 CFR 1.137(b) |
| Attorney Docket No.: 50728 | : | |
| For: BIODEGRADABLE, THERMOPLASTIC MOLDING MATERIALS | : | |

The petition to revive under 37 CFR 1.137(b) filed 19 March 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "the entire delay in taking the necessary steps to enter the National Stage in the United States and filing the enclosed documentation with the USPTO from the due until the filing of this petition was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has provided payment of the full U.S. Basic National Fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National Stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

As authorized, $260.00 will be deducted from Deposit Account No.: 11-0345 ($130.00 as payment of the surcharge for providing and oath or declaration later than 30 months from the earliest claimed priority date and $130.00 as payment of the processing fee for furnishing the English translation later than 30 months from the earliest claimed priority date.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **19 March 2002**.

D A a Puton

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

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Joanne W Patterson
Basell USA Inc
912 Appleton Road
Elkton, MD 21921

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AUG 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Baar et al. :
Application No. 10/088,408 : ON PETITION
Filed: March 19, 2002 :
Attorney Docket No. US 19005 :

This is a decision on the petition under 37 CFR 1.137(a), filed May 16, 2005, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

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

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

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed September 22, 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 23, 2004.

Petitioner contends and has established the final Office action was never received.

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

Petitioner states a copy of a reply is not attached since petitioner has never received a copy of the final Office action. A courtesy copy of the action is attached. The examiner will mail a new copy of the action setting a new time period to respond.

Since the petition has been granted under 37 CFR 1.181, the petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee will be credited back to petitioner's deposit account.

Technology Center Art Unit 1713 will be notified the holding of abandonment has been withdrawn and the examiner will mail a new copy of the final Office action setting a new time period for response.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Copy of 9/22/04 Office action

UNITED STATES PATENT AND TRADEMARK OFFICE

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OSHA LIANG
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SUITE 2800
HOUSTON TX 77919

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MAY 24 2007

OFFICE OF PETITIONS

In re Application of :
Thierry Brusseaux :
Application No. 10/088,448 : DECISION GRANTING PETITION
Filed: March 15, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 17221/003001 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 29, 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 and an terminal disclaimer;(2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of July 6, 2006, is accepted as having been unintentionally delayed.

Since the above application was filed after June 8, 1995, no terminal disclaimer is required.

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

This matter is being referred to Technology Center AU 3623.

Karen Creasy
Petitions Examiner
Office of Petitions

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/17/06

TO SPE OF : ART UNIT 3634

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/088450 Patent No.: 6874279

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

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

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

Certificates of Correction Branch

703-308-9390 ext. _____

**Thank You For Your Assistance**

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

Note your decision on the appropriate box.

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

**Comments:** _____

RICHARD E. CHILCOT, JR.
SUPERVISORY PATENT EXAMINER

SPE

3634
Art Unit

12 DEC 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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BELL, BOYD & LLOYD, LLC
P. O. BOX 1135
CHICAGO, IL 60690-1135

In re Application of : DECISION ON
OKUYAMA et al. :
Serial No.: 10/088,463 :
PCT No.: PCT/JP01/06214 : REQUEST FOR
Int. Filing Date: 18 July 2001 :
Priority Date: 18 July 2000 :
Attorney's Docket No.: 113278.006 : CORRECTED FILING RECEIPT
For: SEMICONDUCTOR LIGHT-EMITTING DEVICE
AND SEMICONDUCTOR LIGHT-EMITTING APPARATUS

This decision is in response to applicant's "REQUEST FOR CORRECTED FILING RECEIPT" filed in the United States Patent and Trademark Office (USPTO) on 16 September 2003. The petition requests a change in the title for the invention, which differs from the title as listed on the published International application.

## BACKGROUND

On 18 July 2001, applicant filed international application No. PCT/JP01/06214 which claimed priority of an earlier Japanese application filed 18 July 2000. A copy of the international application had been communicated earlier to the United States Patent and Trademark Office from the International Bureau on 24 January 2002. The published international application identified the title of the invention as "Semiconductor Light-Emitting Device and Semiconductor Light-Emitting Apparatus".

No Demand was filed for international preliminary examination prior to the expiration of nineteen months from the priority date. Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 18 March 2002.

On 18 March 2002 applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 17 July 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. The notification set a two month time limit in which to respond.

On 23 July 2002, applicant submitted an executed declaration in response to the Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office.

On 25 February 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Acceptance of Application under 35 U.S.C. 371 (Form PCT/DO/EO/903) and filing receipt.

On 16 September 2003, applicant filed, via facsimile in the USPTO, a Request for

Corrected Filing Receipt, requesting a correction to the title of the invention.

## DISCUSSION

Applicant requests correction of the title of the invention to "Semiconductor Light-Emitting Element and Semiconductor Light-Emitting Device" A review of the publication of the international application reveals the correct title of the invention is "Semiconductor Light-Emitting Device and Semiconductor Light-Emitting Apparatus".

The filing receipt mailed on 25 February 2003 identifies the title as it appears on the published international application. Since the title on the filing receipt is identical to that provided on the published international application, the filing receipt properly identifies the title and thus no correction is required.

Applicant is advised that an amendment is needed to change the title of an invention.

## CONCLUSION

For the reasons above, applicant's request for a corrected filing receipt is **DISMISSED WITHOUT PREJUDICE**.

This application is being forwarded to Group Art Unit 2826 for examination in due course.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

30 JAN 2004

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David H. Brinkman
WOOD, HERRON & EVANS
2700 Carew Tower
441 Vine Street
Cincinnati, Ohio 45202-2917

| | | |
|---|---|---|
| In re Application of | : | |
| SCHMITKONS, James, W., et al. | : | |
| U.S. Application No.:10/088,464 | : | DECISION |
| PCT No.: PCT/US00/25282 | : | |
| International Filing Date: 15 September 2000 | : | |
| Priority Date: 20 September 1999 | : | |
| Attorney's Docket No.: NOR-951A | : | |
| For: APPARATUS AND METHOD FOR GENERATING ULTRAVIOLET RADIATION | : | |

This decision is in response to the "Request For Corrected Filing Receipt" filed 10 June 2002 and resubmitted on 05 September 2003. Included in the submission is a request to correct the 35 U.S.C. 371 date from 18 March 2002 to 19 March 2002, the date on which the application materials were purportedly deposited as "Express Mail" with the USPS. The filing date portion of the present submission is treated herein as a petition under 37 CFR 1.10. No petition fee is required.

## BACKGROUND

On 21 May 2002, the DO/EO/US mailed in the above-captioned application a "Notification Of Acceptance Of Application Under 35 U.S.C. 371 And 37 CFR 1.494 Or 1.495" identifying 18 March 2002 as the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and the "Date Of Receipt Of All 35 U.S.C. Requirements."

On 24 May 2002, the USPTO issued applicant a filing receipt identifying 19 March 2002 as the filing date. The filing receipt also indicated that the application included 2 sheets of drawings and 11 claims.

On 10 June 2002, applicant filed the submission considered herein (the materials were resubmitted on 05 September 2003). As noted above, the submission seeks, in part, to correct the 18 March 2002 filing date assigned to this application.

On 01 October 2003, an Office Action was mailed by this Office which addressed an application containing 11 claims.

## DISCUSSION

A review of the present submission and the USPTO's "Express Mail" database confirms that the national stage application materials here were deposited with the USPS as "Express Mail" on 19 March 2002. Accordingly, the 35 U.S.C. 371 date herein is appropriately corrected to 19 March 2002. The Notification Of Acceptance mailed 21 May 2002 and the filing receipt mailed on 24 May 2002, both of which contain the incorrect 18 March 2002 date, are therefore appropriately vacated.

With respect to the number of claims and drawings, a review of the application file confirms applicants' assertion that the present application contains four pages of drawings and 29 claims. Accordingly, these corrections will be incorporated into the revised filing receipt.

Finally, it appears that the Office Action mailed 01 October 2003 was based on an examination of a different specification from the specification of record herein (one of the references accompanying the Information Disclosure Sheet was substituted for the specification of PCT/US00/25282 in the "Application As Filed" section of the application file). Accordingly, the Office Action is appropriately vacated.

## CONCLUSION

Applicant's petition under 37 CFR 1.10 is **GRANTED**. The 35 U.S.C. 371 date for this application is corrected to 19 March 2002.

The "Notification Of Acceptance Of Application Under 35 U.S.C. 371 And 37 CFR 1.494 Or 1.495" mailed 21 May 2002, the filing receipt mailed 24 May 2002, and the Office Action mailed 01 October 2003, are hereby **VACATED**.

The application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accord with this decision, including: (1) mailing a corrected Notification Of Acceptance identifying **19 March 2002** as the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and the "Date Of Receipt Of All 35 U.S.C. Requirements;" and (2) issuing a corrected filing receipt identifying **19 March 2002** as the filing date, and indicating that the application includes four pages of drawings and 29 claims; and (3) returning the application to Group Art Unit 2879 for examination of the correct specification..

Leonard Smith
PCT Legal Examiner
PCT Legal Office

RMR/RC:rmr

Richard M. Ross
PCT Petitions Attorney
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Owen D Marjama
Wall Marjama & Bilinski
Suite 400
101 South Salina Street
Syracuse NY 13202

In re Application of
Toshiro NISHIO, et al.
Application No. 10/088,468
Filed: June 11, 2002
For: **SIGNAL TRANSMISSION SYSTEM**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed February 23, 2004 pursuant to Manual of Patent Examination Procedure §708.02, section 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 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 file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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WASHINGTON DC 20005-3096

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OFFICE OF PETITIONS

In re Application of :
Osamu Sakai et al :
Application No. 10/088,484 :
Filed: March 20, 2002 :
Attorney Docket No. 43888-132 :

ON PETITION

This is a decision on the petition, filed October 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

**Petitioner is advised that the issue fee paid on May 13, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

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

The examiner of Technology Center AU 1745 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

17 OCT 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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Armstrong, Westerman & Hattori, LLP
1725 K Street, N.W.
Suite 1000
Washington, DC 20006

In re Application of FUJII et al
U.S. Application No.: 10/088,488
Int. Application No.: PCT/JP01/06535
Int. Filing Date: 30 July 2001
Priority Date: 28 July 2000
Attorney Docket No.: 020392
For: METHOD FOR PERMITTING REPRODUCTION OF CONTENT FILE AND AND RECORDED MEDIUM ON WHICH REPRODUCTION SOFTWARE FOR REPRODUCING CONTENT FILE IS RECORDED

DECISION ON PETITION

UNDER 37 CFR 1.47(a)

This is in response to applicant's "Petition Under 37 CFR §1.47(a)" filed 30 July 2002, requesting that the present application be accepted for United States national stage processing without the signature of one of the joint inventors.

## BACKGROUND

On 30 July 2001, applicant filed international application PCT/JP01/06535, which claimed priority of an earlier Japan application filed 28 July 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 07 February 2002. A Demand for international preliminary examination, in which the United States was elected, was not filed prior to the expiration of nineteen months from the priority date. Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 28 March 2002.

On 26 March 2002, applicant filed national stage papers with the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 13 June 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed .

On 30 July 2002, applicant filed a declaration along with the present petition under 37 CFR 1.47(a)

## DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by joint inventor Akira Matsubara on his own behalf and on behalf of the nonsigning inventor Bunichiroh Fujii.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated 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 nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The present petition states that joint inventor Fujii refuses to sign the application papers. The petition states that Fujii communicated his refusal to sign in an electronic mail message from Fujii to Yuka Naruse and in an electronic mail message from Fujii to Eriko Uchida. However, a

review of the message from Fujii to Naruse reveals that while Fujii expressed hesitation with respect to patenting the invention, Fujii's statements fell short of refusing to cooperate. Similarly, a review of the message from Fujii to Uchida reveals that Fujii may not understand company policy but does not adequately signify Fujii's refusal to sign. Moreover, even if the respective messages to Naruse and Uchida were deemed sufficient evidence of Fujii's refusal to sign, applicant has not provided affidavits from the persons to whom the purported refusal was made as required by MPEP 409.03(d). Statements based on hearsay will not be accepted. Thus, it would be unreasonable to conclude at the present time that Fujii refuses to join in the application.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

## CONCLUSION

Because applicant has failed to satisfy item (2) above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time are available under 37 CFR 1.136(a).

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

Pet. Dec.

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
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Mailed: 11/5/04

In re application of :
Takuji Okamoto et al. : DECISION ON
Serial No. 10/088,505 : PETITION
Filed: March 28, 2002 :
For: PROPYLENE POLYMER, AND RESIN COMPOSITION AND MOLDED PRODUCT THEREOF

This is a decision on the PETITION UNDER 37 CFR 1.181 TO REVIEW THE RESTRICTION REQUIREMENT of the office action mailed January 30, 2004.

On July 24, 2003, a non-final office action was mailed to applicants rejecting all of the pending claims. Applicants filed a response on November 24, 2003. On January 30, 2004, a lack of unity requirement was made in a non-final office action. In this requirement, the examiner held that the claims lack unity under PCT Rules 13.1 – 13.4. Three groups were presented by the examiner. Group I was directed to a propylene copolymer; Group II was directed to a propylene homopolymer; and Group III was directed to a catalyst composition. Applicants traversed the restriction requirement in a response filed on February 25, 2004 and requested reconsideration of the requirement. The examiner maintained the requirement in an office action mailed on April 16, 2004.

The instant petition was timely filed on June 16, 2004.

**DECISION**

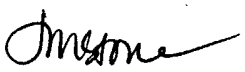
The instant application has been filed under 35 U.S.C. 371 as a national phase application of PCT/JP00/06943 and as such is subject to the unity requirements set out in PCT Rules 13.1 – 13.4 and 37 CFR 1.475, as well as the PCT Administrative Instructions, Annex B. The petitioner's request asserts that, since applicants received a first office action on the merits examining all of the claims, there is no undue burden of search present. Additionally, it is urged that because there was no holding of lack of unity in the International Application, there can be no holding in the instant National Phase application.

These arguments are not persuasive. Under the unity requirements, there is no provision for burden of search. While a burden of search is required to be shown for proper restriction under 35 USC 121, such is not the case for lack of unity guidelines. With respect to the argument that there was no holding of a lack of unity in the International Application, this does not preclude such a holding in the National Phase Application. Merely because the examiner handling the PCT Application chose not hold a lack of unity, such a decision does not necessarily mean a lack of unity does not exist.

Turning to the Lack of Unity requirement, the examiner maintains that the groups do not relate to a single general concept under PCT Rule 13.1, because they lack the same or corresponding special technical feature. It is argued that the copolymers of groups I and II are different types of polymers with different repeating units, therefore they do not share a common technical feature. It is further argued that the polymers do not share a common technical feature with the catalysts of group III.

The examiner's characterization of the relationship between the groups is improper. In the instant case, both groups of polymers are made using the instantly claimed catalysts. The catalysts link the groups together to form a common technical feature (i.e. the catalysts (Group III) are used to produce the polymers (Groups I and II)). Therefore, the lack of unity holding is improper.

Accordingly, the petition is **GRANTED.** The application is being forwarded to the examiner to withdraw the restriction requirement, examine all of the pending claims, and prepare a new non-final office action on the merits for all of the claims.



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

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

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Mailed: 1-4-07

DWW

Paper No. ____

*In re* Application of
Abuelyaman et al.
Serial No.: 10/088,505
Filed: March 28, 2002

**DECISION ON PETITION UNDER** *37 CFR 1.48(b)*

For: PROPYLENE POLYMERS AND RESIN COMPOSITION AND MOLDING CONTAINING THE POLYMERS

This is a decision on the request for CORRECTION OF INVENTORSIP UNDER 37 C.F.R. 1.48(b) (herein treated as PETITION TO DELETE CORRECTLY NAMED PERSON WHO IS NOT INVENTOR OF INVENTION NOW BEING CLAIMED) filed July 28, 2006 to correct inventorship under 37 CFR 1.48(b) by deleting the name of Takuji Okamoto, Takashi Kashiwamura, Noriyuki Tani, Masami Kanamaru, and Koji Kakigami from the list of inventors of the instant application.

It is noted that the applicant has met the requirements of (1) a petition including a statement identifying each named inventor who is being deleted and acknowledging that the inventor's invention is no longer being claimed in the application; and (2) the fee set forth in 37 CFR 1.17(i).

The petition is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

David W. Wu
Supervisory Patent Examiner
Art Unit 1713
Technology Center 1700

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, Va. 22314

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/23/07 Paper No.: ____

TO SPE OF : ART UNIT ~~1711~~ 1796

SUBJECT : Request for Certificate of Correction on Patent No.: 6747088

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

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

Please reply ASAP! 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:

Title of certificate of correction is now correct per originally filed specification. Claim 8, line 10 formula is now correct. See claim 8 in "Specification" of 3/29/02 in EDAN and page 8, claim 8 of PCT priority doc.

Q - WH 1796

SPE Art Unit

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RESTON, VA 20191

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Katsuji Shibata, et al. :
Application No.: 10/088,531 :
Filed: May 31, 2002 :
Attorney Docket No. P22180 :

This is a decision on the petition under 37 CFR 1.182, filed March 18, 2005, to change the name of of one of the joint inventors in the above-identified application.

The petition is GRANTED.

USPTO records will be corrected to show the third inventor's name as:

"Ayako Iwamaru"

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, petitioner can request a Certificate of Correction under 37 CFR 1.322.

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

Telephone inquiries concerning this decision may 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

Enclosure: Corrected Filing Receipt

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1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036-4003

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Akira et al. | : | DECISION ON APPLICATION |
| Application No. 10/088,567 | : | FOR |
| Filed: March 19, 2002 | : | PATENT TERM ADJUSTMENT |
| Attorney Docket No. | : | |
| 14119.1050100 | : | |

This is a decision on the "PETITION FOR CORRECTION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed on October 1, 2008. Applicants requests that the Patent Term Adjustment for the above-identified patent be increased by 672 days from 1039 days to 1711 days on the basis that the Office will take in excess of three years to issue the patent.

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

Patentee is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentee may seek such consideration without payment

of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Nonetheless, for the reasons stated herein, the Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is NINE HUNDRED SEVENTY-THREE (973) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 22, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is one thousand thirty-nine (1039) days. This was calculated based on an Office delay of 1134 days reduced by 95 days of applicant delay.

A review of the record reveals basis for entry of additional periods of reduction pursuant to 37 CFR 1.704(b) and 1.704(c)(10). 37 CFR 1.704(b) states that:

> 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.

After final Office action, the reply considered in calculating applicant delay pursuant to 37 CFR 1.704(b), is the one in compliance with 1.113(c). In this instance, an Office action was mailed on October 19, 2007. Applicant responded with the filing of an amendment on January 9, 2008 and a notice of appeal on March 12, 2008. As the amendment filed January 9, 2008, was

not in compliance with § 1.113(c), the period for reply to the final rejection mailed October 19, 2007, continued to run. See Advisory Action mailed February 8, 2008. The proper reply, a Notice of Appeal, was not received in the Office until March 12, 2008, which is outside of the three-month period under 37 CFR 1.704(b). Accordingly, a period of reduction for applicant delay of 53 days is being entered, counting the number of days beginning on January 20, 2008, the day after the date that is three months after the date of mailing of the final rejection, and ending on March 12, 2008, the date the Notice of Appeal was filed.

Additionally it is noted that on May 8, 2008, a notice of allowance was mailed. Thereafter, on May 23, 2008, a supplemental Information Disclosure Statement (IDS) was filed. On June 4, 2008, an Office communication in response to the supplemental IDS was mailed.

37 CFR 1.704(c)(10) states that circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> 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 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 four months.

37 CFR 1.704(d) further states that:

> a paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that

this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement.

The IDS filed on May 23, 2008 was filed after the mailing of a notice of allowance and did not include the statement specified at 37 CFR 1.704(d). Accordingly, a period of reduction for applicant delay of 13 days is being entered, counting the number of days beginning on May 23, 2008, the date the IDS was filed, and ending on June 4, 2008, the date the Office communication in response was mailed.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is **nine hundred seventy-three (973) days** (1134 days of Office delay reduced by 161 (95+13+53) days of applicant delay).

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

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Encl: Copy of adjusted PAIR calculation

| PTA Calculations for Application: 10/088567 | | | |
|---|---|---|---|
| Application Filing Date: | 03/19/2002 | PTO Delay (PTO): | 1134 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 95 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 973 |
| PTO Delay Adjustment: | -66 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 151 | 02/09/2009 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 13 | |
| 150 | 02/09/2009 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 53 | |
| 129 | 08/22/2008 | MAIL NOTICE OF ALLOWANCE | | | |
| 128 | 08/18/2008 | ISSUE REVISION COMPLETED | | | |
| 127 | 08/18/2008 | DOCUMENT VERIFICATION | | | |
| 126 | 08/18/2008 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 125 | 08/18/2008 | EXAMINER'S AMENDMENT COMMUNICATION | | | |
| 124 | 08/18/2008 | NOTICE OF ALLOWABILITY | | | |
| 123 | 07/09/2008 | MISCELLANEOUS INCOMING LETTER | | | |
| 114 | 07/09/2008 | EMAIL NOTIFICATION | | | |
| 113 | 07/09/2008 | MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413) | | | |
| 112 | 06/24/2008 | EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413) | | | |
| 111 | 07/01/2008 | DATE FORWARDED TO EXAMINER | | | |
| 110 | 06/24/2008 | REQUEST FOR CONTINUED EXAMINATION (RCE) | | | |
| 109 | 07/01/2008 | DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA) | | | |
| 108 | 06/24/2008 | WORKFLOW - REQUEST FOR RCE - BEGIN | | | |
| 107 | 03/12/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 106 | 06/04/2008 | EMAIL NOTIFICATION | | | |
| 105 | 06/04/2008 | MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT | | | |
| 104 | 06/02/2008 | MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT | | | |
| | | INFORMATION DISCLOSURE STATEMENT | | | |

| | | | | | |
|---|---|---|---|---|---|
| 103 | 05/23/2008 | CONSIDERED | | | |
| 102 | 05/23/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 101 | 05/23/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 99 | 05/16/2008 | SEQUENCE FORWARDED TO PUBS ON TAPE | | | |
| 98 | 05/09/2008 | EXPORT TO INITIAL DATA CAPTURE | | | |
| 97 | 05/09/2008 | ELECTRONIC REVIEW | | | |
| 96 | 05/08/2008 | EMAIL NOTIFICATION | | | |
| 95 | 05/08/2008 | EMAIL NOTIFICATION | | | |
| 94 | 05/08/2008 | MAIL EXAMINER'S AMENDMENT | | | |
| 93 | 05/08/2008 | MAIL NOTICE OF ALLOWANCE | | | |
| 87 | 04/25/2008 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 86 | 04/25/2008 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 85 | 04/24/2008 | ISSUE REVISION COMPLETED | | | |
| 84 | 03/12/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 83 | 04/14/2008 | EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413) | | | |
| 82 | 04/22/2008 | EXAMINER'S AMENDMENT COMMUNICATION | | | |
| 81 | 04/22/2008 | NOTICE OF ALLOWABILITY | | | |
| 71 | 03/12/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 70 | 03/29/2008 | DATE FORWARDED TO EXAMINER | | | |
| 69 | 03/12/2008 | AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL | | | |
| 68 | 03/12/2008 | NOTICE OF APPEAL FILED | | | |
| 67 | 03/12/2008 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 66 | 03/12/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 64 | 03/10/2008 | EMAIL NOTIFICATION | | | |
| 63 | 03/10/2008 | MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413) | | | |
| 62 | 02/26/2008 | EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413) | | | |
| 60 | 02/09/2008 | EMAIL NOTIFICATION | | | |
| 59 | 02/08/2008 | MAIL ADVISORY ACTION (PTOL - 303) | | | |
| 58 | 02/04/2008 | ADVISORY ACTION (PTOL-303) | | | |
| | | | | | |

| | | | | | |
|---|---|---|---|---|---|
| 57 | 01/09/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 56 | 01/09/2008 | ELECTRONIC INFORMATION DISCLOSURE STATEMENT | | 0 | 54 |
| 55 | 01/24/2008 | DATE FORWARDED TO EXAMINER | | | |
| 54 | 01/09/2008 | AMENDMENT AFTER FINAL REJECTION | | | |
| 53 | 01/09/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 52 | 12/19/2007 | EMAIL NOTIFICATION | | | |
| 51 | 12/19/2007 | CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA) | | | |
| 50 | 12/14/2007 | CORRESPONDENCE ADDRESS CHANGE | | | |
| 49 | 10/19/2007 | MAIL FINAL REJECTION (PTOL - 326) | | | |
| 48 | 10/15/2007 | FINAL REJECTION | | | |
| 46 | 03/30/2007 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 45 | 07/31/2007 | DATE FORWARDED TO EXAMINER | | | |
| 44 | 07/20/2007 | RESPONSE AFTER NON-FINAL ACTION | | 17 | 41 |
| 43 | 07/17/2007 | MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT | | | |
| 42 | 07/16/2007 | DATE FORWARDED TO EXAMINER | | | |
| 41.1 | 07/03/2007 | INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION | | | |
| 41 | 07/03/2007 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 40.7 | 03/30/2007 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | 78 | 35 |
| 40 | 03/30/2007 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 39 | 04/03/2007 | MAIL NON-FINAL REJECTION | | | |
| 38 | 03/31/2007 | NON-FINAL REJECTION | | | |
| 37 | 01/11/2006 | REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED) | | | |
| 36 | 01/23/2007 | DATE FORWARDED TO EXAMINER | | | |
| 35 | 01/11/2007 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 34 | 10/12/2006 | MAIL NON-FINAL REJECTION | | | |
| 33 | 10/02/2006 | NON-FINAL REJECTION | | | |
| 32 | 09/14/2006 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 31 | 07/26/2006 | DATE FORWARDED TO EXAMINER | | | |
| 30 | 07/18/2006 | RESPONSE TO ELECTION / RESTRICTION FILED | | | |
| 29 | 06/26/2006 | MAIL RESTRICTION REQUIREMENT | 1134 | | -1 |

| | | | | | |
|---|---|---|---|---|---|
| 28 | 06/23/2006 | REQUIREMENT FOR RESTRICTION / ELECTION | | | |
| 27 | 05/12/2006 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 26 | 03/19/2002 | 371 COMPLETION DATE | | | |
| 25 | 03/22/2006 | APPLICATION RETURN FROM OIPE | | | |
| 24 | 03/23/2006 | NOTICE OF DO/EO ACCEPTANCE MAILED | | | |
| 23 | 03/14/2006 | ADDITIONAL APPLICATION FILING FEES | | | |
| 22 | 03/14/2006 | A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN | | | |
| 21 | 03/14/2006 | CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT | | | |
| 20 | 03/20/2006 | CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE | | | |
| 19 | 01/09/2006 | SEQUENCE DISCLOSURE PROBLEMS | | | |
| 18 | 03/19/2002 | A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN | | | |
| 17 | 03/19/2002 | CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT | | | |
| 16 | 07/08/2002 | PRE-EXAM OFFICE ACTION WITHDRAWN | | | |
| 15 | 01/07/2006 | APPLICATION RETURN TO OIPE | | | |
| 14 | 12/20/2005 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 13 | 12/14/2005 | APPLICATION RETURN FROM OIPE | | | |
| 12 | 01/12/2004 | APPLICATION RETURN TO OIPE | | | |
| 11 | 08/15/2003 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 10.7 | 07/22/2002 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 10 | 07/22/2002 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 9 | 03/19/2002 | PRELIMINARY AMENDMENT | | | |
| 8.7 | 03/19/2002 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 8 | 03/19/2002 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 7 | 08/05/2002 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 6 | 07/26/2002 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 5 | 07/22/2002 | APPLICATION DISPATCHED FROM OIPE | | | |
| 4 | 07/08/2002 | NOTICE OF DO/EO ACCEPTANCE MAILED | | | |

| | | | | | |
|---|---|---|---|---|---|
| 3 | 03/19/2002 | CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT | | | |
| 2 | 04/09/2002 | ERROR(S) IN CRF CORRECTED BY STIC | | | |
| 1 | 03/19/2002 | INITIAL EXAM TEAM NN | | | |

**Search Another: Application#** Search

**EXPLANATION OF PTA CALCULATION**

**EXPLANATION OF PTE CALCULATION**

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

Paper No.

KING & SPALDING
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036-4003

MAILED

NOV 19 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Patent No. 7,507,872 | : | |
| Akira et al. | : | DECISION ON |
| Application No. 10/088,567 | : | REQUEST FOR |
| Issue Date: March 24, 2009 | : | RECONSIDERATION OF |
| Filed: March 19, 2002 | : | PATENT TERM ADJUSTMENT |
| Attorney Docket No. | : | UNDER 37 CFR 1.705 |
| 14119.105010 | : | |

This is in response to the REQUEST FOR RECONSIDERATION OF USPTO DECISION REGARDING CORRECTION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed April 14, 2009. Patentee requests that the determination of patent term adjustment be corrected from 1067 days to 1680 days.

The request for reconsideration of patent term adjustment is **GRANTED TO THE EXTENT INDICATED.**

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one thousand eight (1008) days.

Patentees are given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

**BACKGROUND**

On March 24, 2009, the application matured into U.S. Patent No. 7,507,872, with a revised patent term adjustment of 1067 days. The Office determined that the 1193 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) overlaps with the 1134 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) accorded prior to the filing of the request for continued examination. As such, the Office allowed only entry of an adjustment of 59 days. An additional 35 days were accorded pursuant to 37 CFR 1.702(a)(4) for issuance of the patent four months and 35 days after payment of the issue fee. Given the applicant delay of 161 days, the patent issued with a revised patent term adjustment of 1067 (1134 + 35 + 59 - 161) days.

On April 14, 2009, 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 1680 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees maintain that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 1841 (1169 + 1136 - 464 overlap) days as these periods do not occur on the same day. Further, given the applicant delay of 161 days, patentees assert entitlement to 1680 (1841 - 161) days of patent term adjustment.

**OPINION**

Preliminarily, it is noted that 37 CFR 1.703(b)(1) and (4) state that the period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the national stage commenced under 35 U.S.C. 371(f) in an international application and ending on the date a patent was issued, but not including application was filed under 35 U.S.C. 111(a) and ending on the date a patent was issued, but not including (a) the number of days, if any, in the period beginning on the date on which a request for continued examination of the application was filed, and (b) in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending

on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

On June 24, 2008, a request for continued examination (RCE) was filed. The filing of an RCE cuts off the ability to accumulate any additional patent term adjustment under the three-year pendency provision. The period beginning on the day the RCE is filed to the issue date of the patent is excluded from the period under § 1.702(b). As such, the period in this instance is 1192 (not 1193) days, counting the number of days in the period beginning on March 20, 2002, and ending on June 23, 2008.

On March 12, 2008, a notice of appeal was filed. On May 8, 2008, a notice of allowance was mailed. The period beginning on March 12, 2008 and ending on May 8, 2008, is 58 days. Accordingly, a 58 day period should have been excluded from the period of adjustment under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b). The period of adjustment under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) should be 1134 days (1192 - 58).

Regardless, patentees' interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

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

154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application (or, in an international application, the date that the national stage commenced under 35 U.S.C. 371(f)), is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of

adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date the national stage commenced under 35 U.S.C. 371(f), March 19, 2002, and ending on the date of filing of a request for continued examination (RCE), June 24, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 1134 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. An additional 35 days of patent term adjustment were accorded pursuant to § 1.702(a)(4) for the issuance of the patent four months and 35 days after payment of the issue fee. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 1134 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the commencement of the national stage under 35 U.S.C. 371(f).

The 1134 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 1134 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both periods is neither permitted nor warranted. Considering the 35 days of Office delay under § 1.702(a)(4), 1169 (1134 + 35) days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office should have entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

Further, patentee is correct that the Office failed to exclude the period of 58 days. Moreover, considering the RCE, absent the excluded 58 days, the Office incorrectly calculated 1193 days, instead of 1192, pursuant to § 1.702(b). This additional one (1) day must be removed. In view thereof, the 59 (58 + 1) days entered at issuance is being removed.

**CONCLUSION**

Considering the applicant delay of 161 days, the patent term adjustment at issuance is revised to 1008 (1134 + 35 - 161) days.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a Certificate of Correction indicating that the term of the above-identified patent is extended or adjusted by one thousand eight (1008) days.

As the prior decision was held in abeyance with respect to the period under 37 CFR 1.703(b) no further fee is required.

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

Anthony Knight
Supervisor
Office of Petitions

Encl: DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT : 7,507,872 B2

DATED : Mar. 24, 2009

INVENTOR(S) : Akira 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 (1067) days

Delete the phrase "by 1067 days" and insert – by 1008 days--

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SUITE 1000 WEST TOWER
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :
Arne Johansson :
Application No. 10/088584 : ON PETITION
Filing or 371(c) Date: 05/21/2002 :
Attorney Docket Number: :
7589.342.PCUS00 :

This is a decision on the Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181(a), filed September 19, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed January 19, 2006. The Office action set a three (3) month period for reply.

Applicant filed a Notice of Appeal and an Extension of Time request and fee, on June 19, 2006; however, the appeal brief was not filed within the time designated in 37 CFR 41.37. Accordingly, the appeal stood dismissed. A Notice of Abandonment was mailed February 1, 2007.

Applicant files the present petition, and asserts that a timely reply to the Office action, to wit – a Request for Continued Examination and fee, and a Submission in the form of an Amendment, and a request for a five (5) month extension of time and fee authorization, were filed on January 19, 2006.

A review of Office records also reveals that the response to the Office action was received by this Office on January 26, 2006[1]. A review of the response reveals that it contained a Certificate of Mailing under 37 CFR 1.8, certifying that the response was mailed to this office on January 19, 2006, and included the appropriate extension of time and fee. The Certificate of Mailing was executed by Petitioner herein.

[1] Accord MPEP 1215.01.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The difference between the fee for a four month extension of time, $1,590, and a five month extension of time, $2,160, on January 19, 2007, $570, has been charged to Petitioner's deposit account.

The application will be referred to Technology Center Art Unit 3651 for withdrawal of the appeal, and for processing of the response, and for further examination in the normal course of business.

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

Derek L. Woods
Attorney
Office of Petitions

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

**DATE** : 7-18-07

**TO SPE OF** : **Technology Center** 1744

10/088595

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7014813 B1

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

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

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

**Thank You For Your Assistance**

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

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

**Comments:**

The following are not approved: Changes to Figure 1: the reference line from numeral 11 does not correspond to the description in the specification of, "apparatus included generally at 11 incorporating a dual circuit for dehumidification, sterilization and aeration of sealed container".

change to Col. 5, line 53: it appears the instruction should be "after "13" insert --,--."

change to Col. 7, line 28: it appears this change is intended for line 29.

GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER

1744

**SPE** **Art Unit**

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**DATE** : 7-18-07 **Paper No.:** _____

**TO SPE OF** : **Technology Center** 1744 3723 10/088595

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7014813 B1

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

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

**Thank You For Your Assistance**

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

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

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

**Comments:**

Changes do not add new matter or effect the claims.

SPE

3723
**Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

02 MAY 2003

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

Paul N. Kokulis
Morgan. Lewis & Bockius, LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

| | | |
|---|---|---|
| In re Application of | : | |
| BEHAN, et al. | : | |
| Application No.: 10/088,601 | : | DECISION ON REQUEST |
| PCT No.: PCT/GB00/03672 | : | |
| Int. Filing Date: 25 September 2000 | : | UNDER 37 CFR 1.42 |
| Priority Date: 24 September 1999 | : | |
| Attorney Docket No.: 056646-5004 | : | |
| For: DISPENSING DEVICE | : | |

This is a decision on the papers filed in United States Patent and Trademark Office (USPTO) on 18 July 2002, which are being treated as a request for acknowledgment of status under 37 CFR 1.42. No petition fee is required.

## BACKGROUND

On 25 September 2000, applicants filed the international application, which claimed a priority date of 24 September 1999. A Demand for international preliminary examination in which the United States was elected was filed on 30 January 2001 prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 24 March 2002.

On 21 March 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee; an Information Disclosure Statement and a copy of the International Search Report.

On 29 May 2002, applicants were mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date and providing a surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 18 July 2002, applicants filed the current papers which included a combined declaration and power of attorney executed by inventors John BEHAN, Kishen GOHIL and Tony LEE as well as Susan Hart as Executor of the estate of the deceased inventor Gerry HART.

## DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

> "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The declaration filed 18 July 2002 is executed by Susan Hart as Executor of the estate of the deceased inventor, Gerry Hart. However, the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that it is unclear whether the declaration is setting forth the residence, post office address and country of citizenship of Gerry Hart or the Executor as required under 37 CFR 1.497(b). The information must be provided for both the deceased inventor, Gerry Hart and the Executor, Susan Hart.

## CONCLUSION

Applicants' submission under 37 CFR 1.42 is **REFUSED, without prejudice**.

As authorized, $130.00 will be deducted from Deposit Account No.: 50-0310 as the surcharge for providing an oath or declaration later than thirty months from the priority date.

Applicants are hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to respond will result in the abandonment of the application.

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

Boris Milef
Legal Examiner
Office of PCT Legal Administration

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 703-305-0130
Fax: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paul N. Kokulis
Morgan. Lewis & Bockius, LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

In re Application of
BEHAN, et al.
Application No.: 10/088,601
PCT No.: PCT/GB00/03672
Int. Filing Date: 25 September 2000
Priority Date: 24 September 1999
Attorney Docket No.: 056646-5004
For: DISPENSING DEVICE

DECISION ON PETITIONS

UNDER 37 CFR 1.181 AND

37 CFR 1.42

This decision is in response to the applicant's facsimile submission filed 27 February 2004 in the United States Patent and Trademark Office (USPTO). The submission is being treated as a petition under 37 CFR 1.181 and renewed petition under 37 CFR 1.42. No petition fees are required.

## BACKGROUND

On 02 May 2003, applicant was mailed a decision refusing applicant's request for status under 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration and advised that this period was extendable pursuant to 37 CFR 1.136(a).

On 27 February 2004, applicant filed the present response accompanied by a copy of a renewed petition originally filed 29 August 2003, a stamped return postcard and a declaration executed by the executrix to the estate of deceased inventor Gerry Hart.

## DISCUSSION

### I. Petition Under 37 CFR 1.181

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503.

Here, applicant has provided a copy of a date-stamped filing receipt. The receipt identifies the application by first inventor, attorney, and the docket number. The receipt identifies the U.S. serial number as 10/088,601. The receipt is stamped "OIPE JC98 Patent and Trademark Office AUG 29 2003" across its face. The postcard lists: 1. Renewed Petition under 37 CFR 1.42 and 2. Supplemental Declaration of Susan Hart. Thus, it is clear that applicant filed these items originally on 29 August 2003 and applicant's petition under 37 CFR 1.181 to accept the papers

filed 27 February 2004 as being filed 29 August 2003 is **GRANTED.** An examination of the papers finds that applicant authorized the deduction of a two-month extension of time fee from Deposit Account No.: 50-0310. As such, the 29 August 2003 filing is considered timely filed.

**II. Renewed Petition Under 37 CFR 1.42**

Pursuant to 37 CFR 1.42, first sentence:

> "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

Applicant's original request for status under 37 CFR 1.42 was dismissed as the filed declaration was not in compliance with 37 CFR 1.497 (a)-(b) in that it was unclear whether the declaration set forth the residence, post office address and country of citizenship of Gerry Hart or the Executor as required under 37 CFR 1.497(b).

Applicant has presently filed a declaration executed by the executor, Susan Hart providing the residence, post office address and country of citizenship of both herself and her deceased husband, deceased joint inventor, Gerry Hart.

Therefore, it is proper to grant applicant's petition at this time.

**CONCLUSION**

Applicant's renewed request for status under 37 CFR 1.42 is **GRANTED**.

This application will be given an international application filing date of 25 September 2000 and a date of **29 August 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 703-305-0130
Fax: 703-308-6459

Best Available Copy

PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

| | |
|---|---|
| Application Number | 10/088,655 |
| Filing Date | Sept. 22, 1999 |
| First Named Inventor | |
| Art Unit | |
| Examiner Name | |
| Attorney Docket Number | 600204531-4 |

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

Approved 7/19/05
JMStone
Jacqueline M. Stone, Director
Technology Center 1700

Please withdraw me as attorney or agent for the above identified patent application, and

- ☐ all the attorneys/agents of record.
- ☑ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☐ the attorneys/agents associated with Customer Number [ ]

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are:

## CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☑ Change the correspondence address and direct all future correspondence to:

☑ The address associated with Customer Number: 022879

*OR*

| | | | | | |
|---|---|---|---|---|---|
| ☐ Firm or Individual Name | | | | | |
| Address | | | | | |
| City | | State | | Zip | |
| Country | | | | | |
| Telephone | | | Fax | | |
| Signature | William H. Dippert | | | | |
| Name | William H. Dippert, Esq. | | Registration No. | 26,723 | |
| Date | | | Telephone No. | (212) 790-9200 | |

*NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.*

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

531 Rec'd PCT/PTC 28 JUN 2002

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

**TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 USC 371 AND 37 CFR 1.491**

ATTORNEY DOCKET NO.: 216087

U.S. APPLICATION NO.: 10/088,666

| INTERNATIONAL APPLICATION NO. | INTERNATIONAL FILING DATE | PRIORITY DATE CLAIMED |
|---|---|---|
| PCT/EP00/08808 | 08 SEPTEMBER 2000 | 24 SEPTEMBER 1999 |

TITLE OF INVENTION
METHOD AND NUCLEIC ACIDS FOR THE DETECTION OF MICROORGANISMS RELEVANT TO BREWING

APPLICANT(S) FOR DO/EO/US
FANDKE, Markus; GASCH, Alexander; BERGHOF, Kornelia

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☐ This is a **FIRST** submission of items concerning a filing under 35 USC 371 and 37 CFR 1.491.

2. ☒ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a filing under 35 USC 371 and 37 CFR 1.491.

3. ☐ This is an express request to begin national examination procedures (35 USC 371(f)).

4. ☐ The US has been elected by the expiration of 19 months from the priority date (PCT Article 31).

5. ☐ A copy of the International Application as filed (35 USC 371(c)(2))
   a. ☐ is attached hereto (required only if not communicated by the International Bureau).
   b. ☐ has been communicated by the International Bureau.
   c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US).

6. ☐ An English language translation of the International Application as filed (35 USC 371(c)(2)).

7. ☐ Amendments to the claims of the International Application under PCT Article 19 (35 USC 371(c)(3))
   a. ☐ are attached hereto (required only if not communicated by the International Bureau).
   b. ☐ have been communicated by the International Bureau.
   c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
   d. ☐ have not been made and will not be made.

8. ☐ An English language translation of the amendments to the claims under PCT Article 19 (35 USC 371(c)(3)).

9. ☒ An oath or declaration of the inventor(s) (35 USC 371(c)(4)).

10. ☐ An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 USC 371(c)(5)).

11. Nucleotide and/or Amino Acid Sequence Submission
   a. ☐ Computer Readable Form (CRF)
   b. Specification Sequence Listing on:
      i. ☐ CD-ROM or CD-R (2 copies); or
      ii. ☐ Paper Copy
   c. ☐ Statement verifying identity of above copies

**Items 12 to 19 below concern other document(s) or information included:**

12. ☒ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
   ☒ Form PTO-1449
   ☒ Copies of Listed Documents

13. ☒ An assignment for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.

14. ☐ A FIRST preliminary amendment.
   ☐ A SECOND or SUBSEQUENT preliminary amendment.

15. ☐ A substitute specification.

16. ☐ A change of power of attorney and/or address letter.

17. ☐ Application Data Sheet Under 37 CFR 1.76

18. ☒ Return Receipt Postcard

19. ☐ Other items or information:

| U.S. APPLICATION NO. | INTERNATIONAL APPLICATION NO. | ATTORNEY DOCKET NO. |
|---|---|---|
| 10/088,666 | PCT/EP00/08808 | 216087 |

| 20. ☐ The following fees are submitted: | CALCULATIONS | PTO USE ONLY |
|---|---|---|
| **Basic National Fee (37 CFR 1.492(a)(1)-(5)):** | | |
| Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO and International Search Report not prepared by the EPO or JPO ..... $1,040.00 | | |
| International preliminary examination fee (37 CFR 1.482) not paid to USPTO but International Search Report prepared by the EPO or JPO ..... $ 890.00 | | |
| International preliminary examination fee (37 CFR 1.482) not paid to USPTO, but international search fee (37 CFR 1.445(a)(2))paid to USPTO ..... $ 740.00 | | |
| International preliminary examination fee paid to USPTO (37 CFR 1.482) but all claims did not satisfy provisions of PCT Article 33(1)-(4) ..... $ 710.00 | | |
| International preliminary examination fee paid to USPTO (37 CFR 1.482) and all claims satisfied provisions of PCT Article 33(1) to (4) ..... $ 100.00 | | |
| **ENTER APPROPRIATE BASIC FEE AMOUNT=** | $ | |
| Surcharge of $130.00 for furnishing the National fee or oath or declaration later than ☐ 20 ☒ 30 months from the earliest claimed priority date | $130.00 | |

| CLAIMS | NUMBER FILED | NUMBER EXTRA | RATE | | |
|---|---|---|---|---|---|
| Total Claims | -20= | | X $ | $ | |
| Independent Claims | - 3 = | | X $ | $ | |
| ☐ Multiple Dependent Claim(s) (if applicable) | | | $ | $ | |

| | | |
|---|---|---|
| **TOTAL OF ABOVE CALCULATIONS=** | $130.00 | |
| ☐ Applicant claims small entity status. See 37 CFR 1.27. The fees indicated above are reduced by 1/2. | $ | |
| **SUBTOTAL=** | $130.00 | |
| Processing fee of **$130.00** for furnishing English Translation later than ☐ 20 ☐ 30 months from the earliest claimed priority date. | $ | |
| **TOTAL NATIONAL FEE=** | $130.00 | |
| Fee for recording the enclosed assignment. The assignment must be accompanied by an appropriate cover sheet. **$40.00** per property + | $40.00 | |
| **TOTAL FEE ENCLOSED=** | $170.00 | |
| Amount to be: refunded | $ | |
| charged: | $ | |

07 ~~05/2002 LLANDGRA 00000052 10088666~~
01 FC:154 130.00 OP

a. ☒ A check in the amount of $130.00 to cover the Declaration surcharge is enclosed. A check in the amount of $40.00 to cover the Assignment fee is enclosed.

b. ☐ Please charge Deposit Account No. 12-1216 in the amount of $ to cover the above fees. A duplicate copy of this sheet is enclosed.

c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 12-1216. A duplicate copy of this sheet is enclosed.

**NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.**

SEND ALL CORRESPONDENCE TO:

Customer Number: 23460

23460

PATENT TRADEMARK OFFICE

Carol Larcher

Carol Larcher, Registration No. 35,243
One of the Attorneys for Applicant(s)

Date: June 28, 2002

| U.S. APPLICATION NO. | INTERNATIONAL APPLICATION NO. | ATTORNEY DOCKET NO. |
|---|---|---|
| 10/088,666 | PCT/EP00/08808 | 216087 |

**CERTIFICATION UNDER 37 CFR 1.10**

"Express Mail" Label Number: EM196005733US

Date of Deposit: June 28, 2002

I hereby certify that this transmittal, including all of the items listed thereon as enclosures, is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Service under 37 CFR 1.10 on the date indicated above and is addressed to Box PCT, Commissioner for Patents, Attention: DO/EO/US, Washington, D.C. 20231.

Tony Harris
Printed Name of Person Signing:

Tony Harris
Signature

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**Morrison & Foerster LLP**
**1650 Tysons Boulevard**
**Suite 400**
**Mclean, VA 22102**

COPY MAILED

FEB 0 1 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Antonius Emmerink et al. | : | |
| Application No. 10/088,683 | : | DECISION ON PETITION |
| Filed: March 21, 2002 | : | TO WITHDRAW |
| Attorney Docket No. 449122025500 | : | 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 **APPROVED**.

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

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Antonius Emmerink**
**Ayingerstrasse 4**
**Muenchen, 81671**
**Germany**

cc: **Bell, Boyd & Lloyd, LLP**
**P.O. Box 1135**
**Chicago, IL 60690**

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 |
|---|---|---|---|
| 10/088,683 | 07/09/2002 | Antonius Emmerink | 449122025500 |

**CONFIRMATION NO. 4836**

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

**POWER OF ATTORNEY NOTICE**

*OC000000028051738*

Date Mailed: 02/01/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/31/2007.

- 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.

/tswilliams/

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

11 SEP 2006

UNITED STATES 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 G. Rauch
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

| | | |
|---|---|---|
| In re Application of | : | |
| WONG | : | |
| Patent number: 7071828 | : | DECISION ON PETITION |
| U.S. Application No.: 10/088,757 | : | |
| PCT No.: PCT/AU01/00180 | : | UNDER 37 CFR 1.78(a)(3) |
| Int. Filing Date: 22 February 2001 | : | |
| Priority Date: 22 February 2000 | : | AND 37 CFR 1.78(a)(6) |
| Atty Docket No.: Q68693 | : | |
| For: WEARABLE BAND WITH MOTION DETECTION AND FLASHING LIGHTS | : | |

This is a decision on the petition filed 24 October 2005, under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior filed provisional application. The petition has also been treated as a petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of a prior-filed international application designating the United States of America (Application No. PCT/AU01/00180, filed 22 February 2001).

The petitions under 37 CFR 1.78(a)(3) and (6) are **DISMISSED** as follows.

The instant petition seeks acceptance of a late claim for priority to a prior-filed PCT national stage application by way of an amendment to the specification, which reads: "This application is a continuation of international application number PCT/AU01/00180, filed February 22, 2001, which claims the priority of Australian application number PQ 5778, filed February 22, 2000."

As set forth in MPEP 1893.03(c), page 1800-199, a national stage application filed under 35 U.S.C. § 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. *See also* MPEP 1893.03(b). In this regard, since the international application is not an earlier application (it has the same filing date as the national stage), a priority claim in the national stage of the international application is inappropriate. Accordingly, the petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

Petitioner also requests acceptance of a delayed claim for priority under 35 U.S.C. § 119(e) but fails to identify a reference to a U.S. provisional application as required under 37 CFR 1.78(a)(5). Accordingly, the petition under 37 CFR 1.78(a)(6) is **DISMISSED**.

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

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

By hand: Customer Window located at:

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

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

Any questions concerning this matter may be directed to the Derek Putonen at (571) 272-3294.

Boris Milef
Senior Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paul J White
National Renewable Energy Laboratory
1617 Cole Boulevard
Golden CO 80401

COPY MAILED

JUN 3 0 2008

OFFICE OF PETITIONS

In re Patent No. 6,830,778
Issue Date: December 14, 2004
Application No. 10/088,760
Filed: March 21, 2002
Attorney Docket No. NREL 98-34CIP

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.**

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

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

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Irvin Dingle
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TAKEDA PHARMACEUTICALS NORTH AMERICA, INC
INTELLECTUAL PROPERTY DEPARTMENT
475 HALF DAY ROAD, SUITE 500
LINCOLNSHIRE IL 60069

**COPY MAILED**

AUG 21 2006

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Kato et al. | : | DECISION GRANTING PETITION |
| Application No. 10/088,771 | : | |
| Filed: March 19, 2002 | : | |
| Attorney Docket No. 2648 USOP | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed March 8, 2006, to revive the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

This application became abandoned for failure to pay the issue fee as required by the Notice of Allowance and Fee(s) Due mailed on May 17, 2005, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on August 18, 2005. A Notice of Abandonment was mailed on March 1, 2006. Petitioner has met the requirements under 37 CFR 1.137(b). Accordingly, the petition is **GRANTED.**

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

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DUANE MORRIS LLP
PO BOX 5203
PRINCETON NJ 08543-5203

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OFFICE OF PETITIONS

In re Application of
Fleute et al.
Application No.10/088,772
Filed: July 30, 2002
Title of Invention: Three-Dimensional Statistic Reconstruction of Surfaces

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed October 16, 2006.

This above-identified application became abandoned for failure to file a proper reply to the final Office Action of March 3, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment after final Office Action and two month extension of time were filed on August 3, 2006. An Advisory Action mailed on August 17, 2006 informed petitioner the application was not placed in condition for allowance. Accordingly, this application became abandoned on August 4, 2006. This decision precedes the mailing of a Notice of Abandonment.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Request for Continued Examination (RCE), and the amendment will be forwarded to Technology Center 2600 for further processing.

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

Charlema R Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

| | | |
|---|---|---|
| In re Application of | : | |
| Shohan Yanagi | : | |
| Application No. 10/088,781 | : | DECISION ON PETITION |
| Filed: July 25, 2002 | : | |
| Attorney Docket No. NAII1 18875 | : | |

This is a decision on the petition filed on November 15, 2004 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the Office letter dated January 5, 2004. The petition is considered pursuant to 37 CFR 1.181, and no fee is required. A refund of the $55.00 fee tendered with the petition will be credited to Deposit Account No. 03-1740.

The petition is granted.

Petitioner alleges that this application is not abandoned because petitioner did not receive the Office letter in question. Petitioner has supported this allegation in a manner that satisfies the requirements for a petition to withdraw a holding of abandon based upon nonreceipt of Office correspondence as set forth in MPEP § 711.03(c). Based upon the showing submitted by petitioner, it is clear this application is not technically abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for Technology Center 3700 to re-mail the Office letter dated January 5, 2004, together with a complete copy of the Notice of Allowability and all attachments thereto. The period for reply to the re-mailed Office letter will run from the date of re-mailing, and is subject to extensions of time pursuant to 37 CFR 1.136(a). In no event may the time for replying thereto extend more than six months from the date of re-mailing.

PETITION GRANTED

E. Rollins-Cross, Director
Technology Center 3700

Christensen, O'Conner, Johnson, Kindness, PLLC
1420 Fifth Avenue
Suite 2800
Seattle, WA 98101-2347

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Date : May 16, 2007

Patent No. : 7191948 B1
Inventor(s) : Baitz, et al.
Issued : March 20, 2007
Title : **TERMINAL FOR TREATING FORMS**
Docket No. : 6400-032WOUS

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

**Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.**

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

| | |
|---|---|
| By mail: | Mail Stop PETITIONS<br>Commissioner for Patents<br>Post Office Box 1450<br>Alexandria, VA 22313-1450 |
| By hand: | Customer Service Window<br>Mail Stop Petitions<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |
| By fax: | 571-273-8300<br>ATTN: Office of Petitions |

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

Richard R Michaud
The Michaud-Duffy Group
306 Industrial Park Rd Ste 206
Middletown CT 06457

CBN/eme

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Date : May 16, 2007

Patent No. : 7191948 B1
Application No : 10/088789
Inventor(s) : Baitz, et al.
Issued : March 20, 2007
Title : **TERMINAL FOR TREATING FORMS**
Docket No. : 6400-0032WOUS

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

**Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.**

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

| | |
|---|---|
| By mail: | Mail Stop PETITIONS<br>Commissioner for Patents<br>Post Office Box 1450<br>Alexandria, VA 22313-1450 |
| By hand: | Customer Service Window<br>Mail Stop Petitions<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |
| By fax: | 571-273-8300<br>ATTN: Office of Petitions |

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

Richard R Michaud
The Michaud-Duffy Group
306 Industrial Park Rd Ste 206
Middletown CT 06457

CBN/eme

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OFFICE OF PETITIONS

In re Patent No. 7,191,948 :
Issue Date: March 20, 2007 :
Application No. 10/088,789 : ON PETITION
Filed: March 21, 2002 :
Patentee(s): Gunter Baitz, et. al. :

This is a decision on the request for Certificate of Correction under 37 CFR 1.323, filed July 2, 2007, which is being treated as a request under 37 CFR 3.81[1], to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

Since the request is found to be in compliance with 37 CFR 3.81(b), the request is **GRANTED**.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

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

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LAURENCE P. COLTON
TECHNOPROP COLTON, LLC
P.O. BOX 567685
ATLANTA, GA 31156-7685

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Patent No. 6,905,838 | : | |
| Issue Date: June 14, 2005 | : | |
| Application No. 10/088,791 | : | NOTICE |
| Filed: March 21, 2002 | : | |
| Attorney Docket No. 20908.002US | : | |

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

28 MAY 2002

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F. Michael Sajovec
Myers, Bigel, Sibley & Sajovec, P.A.
P.O. Box 37428
Raleigh, NC 27627

| | | |
|---|---|---|
| In re Application of | : | |
| MORRISON, et al. | : | |
| Application No.: 10/088,807 | : | DECISION ON PETITION |
| PCT No.: PCT/GB00/02903 | : | UNDER 37 CFR 1.137(b) |
| Int. Filing Date: 28 July 2000 | : | |
| Priority Date: 30 July 1999 | : | |
| Attorney Docket No.: 9013-46 | : | |
| For: PEPTIDE TRANSPORT | : | |

The petition to revive under 37 CFR 1.137(b) filed 21 March 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the applicant has submitted the basic national fee of $445 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National Stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration and payment of the applicable surcharge is required.

Derek A. Putonen
Attorney-Advisor
PCT Legal Office
Telephone: (703) 305-0130
Facsimile: (703) 308-6459

22 JAN 2004

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Martin Fleit
FLEIT KAIN GIBBONS GUTMAN & BONGINI
601 Brickell Key Drive, Suite 404
Miami, Florida 33131

| | | |
|---|---|---|
| In re Application of: | : | |
| Waltham et al. | : | DECISION ON |
| Application No.: 10/088,811 | : | PETITION |
| PCT No.: PCT/GB00/03634 | : | UNDER 37 CFR 1.137(b) |
| Int. Filing Date: 22 September 2000 | : | |
| Priority Date: 24 September 1999 | | |
| Docket No.: 722-X02-022 | : | |
| For: A METHOD OF MANUFACTURING | : | |
| FLEXIBLE MAGNETIC TAPE | : | |

This is in response to the petition filed 03 December 2003 under 37 CFR 1.137 (b) to revive the above-identified abandoned application for "unintentional" delay.

## BACKGROUND

On 22 September 2000, applicants filed international application PCT/GB00/03634, which claimed priority to an earlier application, filed 24 September 1999. A Demand for international preliminary examination was timely filed. Accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on 24 March 2002.

On 21 March 2002, a transmittal letter for entry into the national stage in the United States (From PTO-1390) was filed along with the $510.00 basic national fee (small entity) required by 35 USC 371(c)(1) and 37 CFR 1.492(a)(1). The transmittal letter further includes an authorization to charge Deposit Account No. 500601 for any additional fees which may be required. An executed oath or declaration was not submitted.

On 07 June 2002, a "Notification of Missing Requirements Under 35 USC 371" was mailed to the applicant indicating an oath or declaration must be furnished in compliance with 37 CFR 1.497(a) and (b).

On 03 December 2003, the present petition was submitted with, inter alia, an executed declaration and the petition fee of $665.00.

## DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, (2) the petition fee required 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 under 37 CFR 1.137(b) was unintentional, and (4) a terminal disclaimer with disclaimer fee

(only for utility and plant applications filed before 08 June 1995).

Regarding items (1) and (2), applicants furnished the required reply and the petition fee of $665.00 payable via counsel's Deposit Account No. 500601.

Regarding item (3), the petition includes a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

Regarding item (4), because applicants' filing date of 22 September 2000 is after 08 June 1995, the requirement of a terminal disclaimer with disclaimer fee is not applicable in this case.

Accordingly, applicants have satisfied each of the requirements of 37 CFR 1.137(b).

A surcharge of $65.00 (small entity) for submitting Declaration executed by the inventor later than 30 months from the priority date of 24 September 1999 will be charged to the counsel's Deposit Account No. 500601.

A review of the application file reveals that with the filing of the present petition and declaration of the inventors, and with the payment of the late surcharge, the requirements of 35 USC 371 have now been satisfied.

01/23/2004 MKAYPAGH 00000166 500601 10088811

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## CONCLUSION

The request to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED**.

The application has an international filing date of 22 September 2000 under 35 USC 363, and a 35 USC 371 date of **03 December 2003.**

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further review and processing in accordance with this communication.

Shih-yung Hsieh
PCT Legal Detailee
PCT Legal Office
Telephone: (703) 308-6162
Facsimile: (703) 308-6459

Richard Cole
PCT Legal Examiner
PCT Legal Office

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ASTRAZENECA R&D BOSTON
35 GATEHOUSE DRIVE
WALTHAM MA 02451-1215

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In re Application of :
Mortlock et al. :
Application No. 10/088,814 : DECISION ON PETITION
Filed: September 4, 2002 :
Attorney Docket No. Z70599-1P US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

**The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.**

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 14, 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 (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A one month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is July 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of 1620.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1624 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Charlema Grant
Petitions Attorney
Office of Petitions

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WALTHAM MA 02451-1215

| | | |
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| In re Application of | : | |
| Mortlock et al. | : | |
| Application No. 10/088,814 | : | DECISION ON PETITION |
| Filed: September 4, 2002 | : | PURSUANT TO |
| Attorney Docket No.: Z70599-1P US | : | 37 C.F.R. § 1.137(B) |
| Title: QUINAZOLINE DERIVATIVES AND THEIR USE AS PHARMACEUTICALS | : | |

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed June 5, 2009, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed February 26, 2009, 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 May 27, 2009. A Notice of Abandonment was mailed on June 9, 2009, subsequent to the filing of this petition.

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 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the

1 See MPEP § 710.02(e)(III).

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 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the proper statement of unintentional delay, the petition fee, and the issue fee. As fsuch, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[2]

Pursuant to this decision, the Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status**.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

Paul Shanoski
Senior Attorney
Office of Petitions

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2 See Rule 1.137(d).

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

12 JAN 2005

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T. Daniel Christenbury
IP Department of Piper Rudnick LLP
3400 Two Logan Square
18th and Arch Streets
Philadelphia, PA 19103-2762

| | | |
|---|---|---|
| In re Application of | : | |
| Ritsuo NAKAJIMA | : | DECISION ON |
| Application No.: 10/088,818 | : | |
| PCT No.: PCT/JP99/05369 | : | PETITION |
| International Filing Date: 30 September 1999 | : | |
| Priority Date: None | : | UNDER 37 CFR 1.181 |
| For: DROP-BOTTOM CONTAINER | : | |

This decision is in response to applicant's Request For Corrected Filing Receipt filed 25 April 2003 and applicant's Transmittal Letter filed 31 December 2002. These communications are being collectively treated as a petition under 37 CFR 1.181 to treat applicant's declaration filed 31 December 2002 as if it had been originally filed on 23 September 2002.

## BACKGROUND

On 30 September 1999, applicant filed international application PCT/JP99/05369. The international application designated the United States. A copy of the international application was communicated on 05 April 2001 from the International Bureau to the United States Patent & Trademark Office. A Demand, in which the United States was elected, was timely filed. Therefore, applicant's thirty month period for entering the United States national stage expired at midnight on 01 April 2002 (30 March 2002 being a Saturday).

On 22 March 2002, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States under 35 U.S.C. 371, accompanied by, *inter alia*, the requisite basic national fee.

On 17 December 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required.

On 31 December 2002, applicant filed a Transmittal Letter indicating that a declaration

was previously filed on 23 September 2002 and accompanied by a copy of an executed declaration and a copy of a return receipt postcard.

On 24 March 2003 the DO/EO/US mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (Form PCT/DO/EO/903) indicating a date under 35 U.S.C. 371 of 31 December 2002.

On 25 April 2003, applicant filed a Request For Corrected Filing Receipt indicating that the date under 35 U.S.C. 371 (c) was incorrect and that the date should be corrected to 23 September 2002.

## DISCUSSION

MPEP at section 503 states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Applicant's date stamped postcard receipt lists a $65.00 Check, $40.00 Check, Certificate of Mailing, Transmittal Letter in duplicate and copy of executed Combined Declaration and includes a U.S. Patent and Trademark Office (PTO) date stamp of 23 September 2002.

Applicant's date stamped postcard receipt is sufficient to establish that the copy of the executed declaration filed 21 December 2002 was originally filed on 23 September 2002.

## CONCLUSION

In view of the above, applicant's petition is **GRANTED**.

The NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495 (Form PCT/DO/EO/903) mailed 24 March 2003 is hereby **vacated**.

The application is being returned to the DO/EO/US for issuance of a new Notification of Acceptance Under 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating a date under 35 U.S.C. 371(c)(1), (2) and (4) of 23 September 2002 and corrected filing receipt.

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

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: 571-272-3289
Facsimile: 571-273-0459

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Paper No. 11

FRIEDRICH KUEFFNER, ESQ.
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NEW YORK, NY 10173

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OFFICE OF PETITIONS

In re Application of :
Mathofer :
Application No. 10/088,836 : ON PETITION
Filed: March 21, 2002 :
Attorney Docket No. BM-87PCT :

This decision concerns the May 3, 2004 "Petition to Revive Unintentionally Abandoned Application." The petition asserts non-receipt of an Office action and is being properly treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-referenced application.

The petition is **GRANTED.**

The application was held abandoned as of December 27, 2003 for failure to timely submit a proper reply to the September 26, 2003 non-final Office Action. The instant petition asserts non-receipt of this Office action, and indicates that this Office action may have been mailed to counsel's former address.

The petition argues, and the Office agrees, that the correspondence address for this application, as stated in the March 21, 2002 Form PTO-1390 for entering the national stage in the United States under 35 U.S.C. 371, is counsel's new and current address. Apparently, counsel's former address shown in the earlier application declaration was used instead.

In fact, the Office has located in the application file the package containing the September 26, 2003 non-final Office Action, mailed to counsel's former address and subsequently returned to the USPTO (see attached).

In view of the above, the September 26, 2003 non-final Office Action was indeed mailed to a wrong address and never received by counsel. The petition is thus granted and the April 1, 2004 Notice of Abandonment vacated.

No petition fee is owed. The $1,330 payment enclosed with the petition and intended for a §1.137(b) petition has been credited to Deposit Account No. 11-1835 as authorized in the Form PTO-1390 .

Finally, the correspondence address has been corrected.

The application file is being returned to Technology Center 3600 for re-mailing of the non-final Office action with a new due date.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

Attachment: September 26, 2003 non-final Office Action (courtesy copy)

04 JUN 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Klaus P. Stoffel
Cohen, Pontani, Lieberman & Pavane
551 Fifth Avenue, Suite 1210
New York, NY 10176

In re Application of PIECH et al
U.S. Application No.: 10/088,838
Int. Application No.: PCT/EP99/02716
Int. Filing Date: 22 April 1999
Priority Date: 21 September 1998
Attorney Docket No.: 4598-48PUS
For: MOUNTING ARRANGEMENT OF AN AUTOMOBILE DRIVE UNIT HAVING A COMBUSTION ENGINE AND A TRANSMISSION

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 21 March 2002.

## BACKGROUND

On 22 April 1999, applicant filed international application PCT/EP99/02716, which claimed priority of an earlier Germany application filed 21 September 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 30 March 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 09 February 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 21 March 2001.

International application PCT/EP99/02716 became abandoned as to the United States at midnight on 21 March 2001 for failure to pay the basic national fee.

On 21 March 2002, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

## DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

## CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The $130.00 surcharge set forth in 37 CFR 1.492(e) and the $130.00 processing fee set forth in 37 CFR 1.492(f) will be charged to Deposit Account No. 03-2412 per applicant's authorization.

This application has an international filing date of 22 April 1999 and a date under 35 U.S.C. 371 of 21 March 2002.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

08 OCT 20

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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KENYON & KENYON
One Broadway
New York, New York 10004

| | | |
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| In re Application of | : | |
| LENZING, Thomas, et al. | : | |
| U.S. Application No.: 10/088,841 | : | COMMUNICATION |
| PCT No.: PCT/DE01/02669 | : | REGARDING SUBMISSION |
| International Filing Date: 17 July 2001 | : | UNDER 37 CFR 1.42 |
| Priority Date: 21 July 2000 | : | |
| Attorney's Docket No.:10191/2313 | : | |
| For: DEVICE FOR DETERMINING AT LEAST ONE PARAMETER OF A FLOWING MEDIUM | : | |

This communication is issued in response to applicant's submission on 01 July 2002 of a declaration executed on behalf of the deceased inventor, which has been treated as a submission under 37 CFR 1.42.

## BACKGROUND

On 17 July 2001, applicants filed international application PCT/DE01/02669 which claimed a priority date of 21 July 2000 and which designated the United States. On 31 January 2002, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

A Demand was not filed with the International Preliminary Examining Authority electing the United States prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was twenty months from the priority date, i.e., 21 March 2002.

On 21 March 2002, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 30 May 2002, the USPTO mailed a Notification Of Missing Requirements indicating that an executed oath or declaration in compliance with 37 CFR 1.497 and the $130 surcharge for filing the declaration later than twenty months after the priority date were required.

On 01 July 2002, applicants filed a response to the Notification Of Missing Requirements which included payment of the surcharge and a declaration executed by the surviving co-inventors and, apparently, by someone on behalf of the deceased co-inventor Dieter TANK.

## DISCUSSION

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

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Section 409.01(a) of the Manual of Patent Examining Procedure (MPEP) states that the application can also be executed by all of the heirs of the deceased inventor, where no legal representative has been appointed or is required to be appointed by law.

37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

37 CFR 1.497(b)(2) requires that citizenship, mailing address, and residence information be provided for **both** the deceased inventor and the legal representative. The regulation expressly requires the inclusion of this information for the legal representative. As for the deceased inventor, such information is required because the legal representative must declare to all the facts which the inventor would have been required to state, and citizenship, residence and mailing address are among the facts which the inventor would have been required to set forth pursuant to 37 CFR 1.497(a) and 37 CFR 1.63.

Applicants have submitted supplemental materials with respect to the deceased inventor's estate, but these materials do not make clear whether Anke FLEISCHER is the sole heir of the deceased inventor with respect to this patent application. While applicants have submitted a translation of a "Certificate Of Inheritance" naming Anke FLEISCHER as the sole heir, the attached materials imply that the deceased inventor's parents also have an interest in the deceased inventor's estate. If this is the case, than these additional heirs must also execute the declaration (under 37 CFR 1.42, the signature of all the heirs of a deceased inventor are required, if there is no legal representative and applicable law does not require the appointment of a legal representative). Applicants should note that he submission of a declaration executed by the heirs of the deceased inventor is construed as an indication that no legal representative of the deceased's estate has been appointed or is required by the applicable law to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to

submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

Moreover, even if the filed declaration was executed by the proper party under 37 CFR 1.42, the declaration does not comply with 37 CFR 1.497(b)(2) in that it does not expressly state who is executing the declaration on behalf of the deceased inventor or the "relationship of the person to the inventor (i.e., "[name] as the sole heir of deceased inventor Dieter TANK"). The declaration also does not include the citizenship, mailing address, and residence information for both the heir and deceased inventor, as required. From the supplemental materials, it appears that the information might be the same for the heir and the deceased inventor, but this information is required in the declaration itself.

Because the declaration does not expressly state the name of the person signing the declaration on behalf of the deceased inventor and the relationship of this person to the inventor, and because it does not provide all the information required by 37 CFR 1.497(b)(2), the present declaration is unacceptable, even if applicnts can demonstrate that it was executed by the proper party under 37 CFR 1.42.

## CONCLUSION

The 01 July 2002 submission under 37 CFR 1.42 is **REFUSED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mailing date of this communication to submit a proper response under 37 CFR 1.42 and 37 CFR 1.497. Failure to provide a proper and timely response will result in abandonment. A proper response must include an acceptable declaration properly executed under 37 CFR 1.42 and 37 CFR 1.497 with a showing that the person(s) executing on behalf of the deceased inventor are either the inventor's legal representative(s) or all of his heirs, as discussed above.

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

RMR/LS:rmr

Richard M. Ross
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Telephone: (703) 308-6155
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UNITED STATES PATENT AND TRADEMARK OFFICE

#7

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

13 MAY 2003

KENYON & KENYON
One Broadway
New York, New York 10004

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| In re Application of | : | |
| LENZING, Thomas, et al. | : | |
| U.S. Application No.: 10/088,841 | : | DECISION REGARDING |
| PCT No.: PCT/DE01/02669 | : | RENEWED SUBMISSION |
| International Filing Date: 17 July 2001 | : | UNDER 37 CFR 1.42 |
| Priority Date: 21 July 2000 | : | |
| Attorney's Docket No.:10191/2313 | : | |
| For: DEVICE FOR DETERMINING AT LEAST ONE PARAMETER OF A FLOWING MEDIUM | : | |

In a communication issued by this Office 08 October 2002, applicant's original submission under 37 CFR 1.42 and 37 CFR 1.497 was refused for failure to satisfy the requirements of these provisions. Specifically, the communication stated that the record was unclear as to whether Anke Fleischer (who apparently executed the declaration on behalf of deceased inventor Dieter Tank) was the sole heir of the deceased inventor. This issue arose because of an apparent inconsistency in the submitted materials, described in the communication as follows:

> While applicants have submitted a translation of a "Certificate Of Inheritance" naming Anke FLEISCHER as the sole heir, the attached materials imply that the deceased inventor's parents also have an interest in the deceased inventor's estate.

The communication also noted that the declaration did not satisfy the requirements of 37 CFR 1.497(b) in that it did not specifically set forth the relationship between the person executing the declaration and the deceased inventor, and it did not include the citizenship, residence, and post-office address information for both the deceased inventor and the legal representative.

On 09 December 2002, applicants filed the renewed submission considered herein. This submission includes a revised declaration which lists all three heirs of the deceased inventor identified in the filed materials (Anke Fleischer, Johannes Tank, and Eva Tank). The revised declaration also includes the information and statement of relationship required under 37 CFR 1.497(b).[1] However, the declaration is only executed by two of the three joint heirs. Applicants'

[1] The declaration identifies the relationship for such persons as both "heir" and "legal representative" of the deceased inventor. It appears, based on submitted materials, that a legal representative has not been appointed but rather arose because of the status of "heirs." This distinction is significant, because in circumstances where a legal representative has been

submission explains that the nonsigning heir, Johannes Tank, died on 10 September 2002.

The estate of Johannes Tank is now a joint heir of the deceased inventor Dieter Tank. Accordingly, the legal representative (or all the heirs) of Johannes Tank must execute the present declaration before it can be accepted.

Because the revised declaration has not been executed on behalf of all the heirs to the deceased inventor, the declaration cannot be accepted under 37 CFR 1.42.

Based on the above, the 09 December 2002 submission under 37 CFR 1.42 is **REFUSED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mailing date of this communication to submit a proper response under 37 CFR 1.42 and 37 CFR 1.497. Failure to provide a proper and timely response will result in abandonment. A proper response must include an acceptable declaration properly executed under 37 CFR 1.42 and 37 CFR 1.497 and fully executed on behalf of the deceased inventor, as discussed above.

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

Boris Milef
PCT Legal Examiner
PCT Legal Office

RMR/BM:rmr

Richard M. Ross
PCT Petitions Attorney
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appointed, only the signature of this person is required, whereas in circumstances where no legal representative has been appointed, the signature of all the heirs is required on the declaration.

30 SEP 2003
UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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KENYON & KENYON
One Broadway
New York, New York 10004

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| In re Application of | : | |
| LENZING, Thomas, et al. | : | |
| U.S. Application No.: 10/088,841 | : | DECISION REGARDING |
| PCT No.: PCT/DE01/02669 | : | SECOND RENEWED |
| International Filing Date: 17 July 2001 | : | SUBMISSION UNDER |
| Priority Date: 21 July 2000 | : | 37 CFR 1.42 |
| Attorney's Docket No.:10191/2313 | : | |
| For: DEVICE FOR DETERMINING AT LEAST ONE PARAMETER OF A FLOWING MEDIUM | : | |

In a decision mailed by this Office on 13 May 2003, applicants' revised declaration submitted under 37 CFR 1.42 and 37 CFR 1.497 (filed 09 December 2002) was refused for failure to satisfy the requirements of these provisions. Specifically, the declaration filed was not executed by Johannes Tank, identified as one of the joint heirs to the deceased inventor, who applicants stated was now also deceased. The decision states that the signature of the legal representative of Johannes Tank was required.

On 14 July 2003, applicants filed a response to the 13 May 2003 decision, considered herein. In this response, applicants state that "Eva Tank, is the sole heir of the estate of her late husband Johannes Tank." Applicants note that Eva Tank signed the declaration filed 09 December 2002 , and argue that this declaration should therefore be accepted.

Applicants are informed that the USPTO is accepting the revised declaration filed 09 December 2002 in view of applicants' statement that Eva Tank is the sole heir of Johannes Tank and we are construing Eva Tank's signature on the declaration as being on behalf of herself and Johannes Tank's estate. We are also construing the submissions herein as an indication that no legal representative of deceased inventor Dieter Tank or deceased heir Johannes Tank estate have been appointed and that no legal representative is required by the applicable law to be appointed. If these interpretations are incorrect, applicant, is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor and/or the deceased heir in response to this decision.

Based on the above, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

## CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**. The revised declaration filed on 09 December 2002 is accepted as complying with 37 CFR 1.497.

The application will be forwarded to the United States Designated/Elected Office (US/DO/EO) for further processing. The 35 U.S.C. 371 date is 09 December 2002.

Richard Cole
PCT Legal Examiner
PCT Legal Office

RMR/RC:rmr

Richard M. Ross
PCT Petitions Attorney
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GLOBAL PATENT DEPARTMENT
POST OFFICE BOX 1027
ST. LOUIS, MO 63006

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SEP 25 2007

OFFICE OF PETITIONS

In re Application of

:

Brown, et al.:

Application No. 10/088,876

: DECISION ON PETITION

Filed: January 16, 2003

:

Attorney Docket No. A0000180/2-01-MG

This is a decision on the petition under 37 CFR §1.137(b), September 5, 2007, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1400.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed May 25, 2007. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on August 26, 2007. A Notice of Abandonment was mailed on September 10, 2007.

The issue fee was received on September 5, 2007.

Form PTOL-85B, filed September 5, 2007, is noted and made of record.

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 directed to the Office of Patent Publications for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

22 OCT 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Michael L. Dunn
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P.O. Box 10
Newfane, NY 14108

| | | |
|---|---|---|
| In re Application of EIRICH et al | : | |
| U.S. Application No.: 10/088,888 | : | |
| Int. Application No.: PCT/DE00/03117 | : | DECISION |
| Int. Filing Date: 06 September 2000 | : | |
| Priority Date: 23 September 1999 | : | |
| Attorney Docket No.: WSP:205 US | : | |
| For: METHOD FOR CONDITIONING FOUNDRY MOULDING SAND AND A DEVICE THEREFOR | : | |

This is in response to the papers filed 29 July 2002, which is being treated as a petition under 37 CFR 1.497(d).

## BACKGROUND

On 06 September 2000, applicant filed international application PCT/DE00/03117, which claimed priority of an earlier Germany application filed 23 September 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 29 March 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 11 April 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 25 March 2002 (23 March 2002 was a Saturday).

On 22 March 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 30 May 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that a properly executed oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 29 July 2002, applicant filed the present petition along with an executed declaration.

## DISCUSSION

37 CFR 1.497(d) (effective 07 November 2000) states,

> If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in § 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

With regard to item (1) above, applicant has provided the requisite statement.

With regard to item (2) above, the requisite processing fee will be charged to Deposit Account No. 04-1790 as authorized by applicant.

With regard to item (3) above, in situations where an assignee consents to a correction of inventorship, ownership of the application must be established. See MPEP 324. Under 37 CFR 3.73(b), ownership is established by documentary evidence of a chain of title from the original owner to the assignee. In the present case, the petition is accompanied by a copy of an assignment agreement, but the petition does not include a statement from the assignee which indicates that the assignee consents to the correction of inventorship.

## CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)". No additional petition fee is required.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
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10 FEB 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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P.O. Box 10
Newfane, NY 14108

| | | |
|---|---|---|
| In re Application of EIRICH et al | : | |
| U.S. Application No.: 10/088,888 | : | |
| Int. Application No.: PCT/DE00/03117 | : | DECISION |
| Int. Filing Date: 06 September 2000 | : | |
| Priority Date: 23 September 1999 | : | |
| Attorney Docket No.: WSP:205 US | : | |
| For: METHOD FOR CONDITIONING FOUNDRY MOULDING SAND AND A DEVICE THEREFOR | : | |

This is in response to the "Renewed Petition Under 37 CFR 1.497(d)" filed 23 December 2002.

## BACKGROUND

On 06 September 2000, applicant filed international application PCT/DE00/03117, which claimed priority of an earlier Germany application filed 23 September 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 29 March 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 11 April 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 25 March 2002 (23 March 2002 was a Saturday).

On 22 March 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 30 May 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that a properly executed oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 29 July 2002, applicant filed a petition under 37 CFR 1.497(d) along with an executed declaration.

On 22 October 2002, this Office mailed a decision dismissing the 29 July 2002 petition.

On 23 December 2002, applicant filed the present renewed petition under 37 CFR 1.497(d).

## DISCUSSION

37 CFR 1.497(d) (effective 07 November 2000) states,

> If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in § 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Applicant has previously satisfied items (1) and (2) above.

With regard to item (3) above, in situations where an assignee consents to a correction of inventorship, ownership of the application must be established. See MPEP 324. Under 37 CFR 3.73(b), ownership is established by documentary evidence of a chain of title from the original owner to the assignee. In the present case, applicant has submitted a copy of an assignment agreement, and the petition includes a statement from the assignee which indicates that the assignee consents to the correction of inventorship.

## CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.497(d) is GRANTED.

The application has an International Filing Date of 06 September 2000 and a date under 35 U.S.C. 371(c) of 29 July 2002.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:** _____

**DATE** : 12/12009

**TO SPE OF** : ART UNIT 1712

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 10/088,903 Patent No.: 6,710,135

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)**
**Randolph Square – 9D10-A**
*Palm Location 7580*

Ernest C. White LIE
Randolph Sq. Ste 9D62A
**703-756-1590**

**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** [signature] **ART UNIT** 1796

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) |
|---|---|---|---|---|
| 6849046 | 2005-02-01 | 10/088,938 | 2002-03-21 | |

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 | /David Klein/ | Date (YYYY-MM-DD) | 2010-04-06 |
| Name | David Klein | Registration Number | 41118 |

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

In re Patent No. 6849046
Issue Date: February 1,2005
Application No. 10088938
Filed: March 21,2002
Attorney Docket No. 332/02634

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

This is a decision on the electronic petition, filed April 6,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 6,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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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ST ONGE STEWARD JOHNSTON & REENS
986 BEDFORD STREET
STAMFORD, CT 06905-5619

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MAR 1 1 2004

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Hendrick Lambertus Lagerwey | : | |
| Application No. 10/088,941 | : | ON PETITION |
| Filed: March 21, 2002 | : | |
| Attorney Docket No. | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed February 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 23, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 24, 2003.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being referred to Technology Center AU 2834.

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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SYNGENTA BIOTECHNOLOGY, INC.
PATENT DEPARTMENT
3054 CORNWALLIS ROAD
P.O. BOX 12257
RESEARCH TRIANGLE PARK NC 27709-2257

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**NOV 2 3 2005**

**OFFICE OF PETITIONS**

In re Application of :
Christopher John Andrews et al. :
Application No. 10/088,945 : ON PETITION
Filed: September 18, 2000 :
Attorney Docket No.: PPD 50449/ UST :

This is a decision on the petition filed August 18, 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 non-Final Office Action mailed February 9, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned May 10, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The record reveals that a three month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1020.00 extension of time fee submitted with the petition on August 18, 2005, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 50-1744.

---

[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)).

This matter is being referred to Technology Center 1652 for appropriate action on the amendment filed August 18, 2005.

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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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DEC 28 2007

OFFICE OF PETITIONS

In re Application of :
Frederic J. De Sauvage, et al. :
Application No.: 10/088,950 :
Filed: March 20, 2002 :
Attorney Docket No.: 11669.0123USWO :

ON PETITION

This is a decision on the petition, filed December 27, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

The application is being referred to Technology Center AU 1647 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

29 APR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ralph J. Mancini
Akzo Nobel, Inc.
7 Livingstone Avenue
Dobbs Ferry, New York 10522-3404

In re Application of :
SLITKA et al. :
Application No.: 10/088,962 : DECISION ON PETITION
PCT No.: PCT/US00/25483 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 15 September 2000 :
Priority Date: 24 September 1999 :
Attorney Docket No.: ACA6127US1 :
For: METHOD OF IMPROVING THE PERMEABILITY OF AN UNDERGROUND PETROLEUM-CONTAINING FORMATION

The petition to revive under 37 CFR 1.137(b) filed 03 February 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted the declaration and power of attorney and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **03 February 2003**.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

28 JUN 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patrick J. Kelly, Esquire
Synnestvedt & Lechner LLP
2600 Aramak Tower
1101 Market Street
Philadelphia, PA 19107-2950

| | |
|---|---|
| In re Application of<br>Robert J. Steffan et al<br>Application No.: 10/088,991<br>PCT No.: PCT/US00/14637<br>Int. Filing Date: 26 May 2000<br>Priority Date: 28 May 1999<br>Attorney's Docket No.: P23,149A USA<br>For: Preparation of Enatio-Specific Expoxides | DECISION ON<br><br>PETITION UNDER<br><br>37 CFR 1.137(b) |

This is in response to the "Petition to Revive an Unintentionally Abandoned Application Pursuant 37 CFR 1.137(b)."

## BACKGROUND

On 26 May 2000, this international application was filed, claiming an earliest priority date of 28 May 1999.

On 20 December 2000, a Demand electing the United States was filed in this international application Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 28 November 2001. This international application became abandoned with respect to the United States at midnight on 28 November 2001 for failure pay the basic national fee.

On 27 February 2002, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, and a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the U.S. basic national fee and an executed declaration.

## DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional

information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3) and, (4) under 37 CFR 1.137(b).

**DECISION**

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 20, 2006

TO SPE OF : ART UNIT 1746

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/089004 Patent No.: 6,852,205 B1

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.

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

**Comments:** _____

MICHAEL BARR
SUPERVISORY PATENT EXAMINER

SPE — Art Unit 1746

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

# UNITED STATES PATENT AND TRADEMARK OFFICE
## CERTIFICATE OF CORRECTION

PATENT NO. : 6,852,205 B1
DATED: February 8, 2005
INVENTOR(S): Manabu Toyoshima
Masaru Yonezawa
Kiyoshi Hirai
Akiko Miyake
Yutaka Ishii
Tsutomu Oi
Shingo Toriu

OK TO Enter 04 7/31/06

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

In the Title section, please correct as follows:

--Electrode Plate for Water Electrolysis Device, Electrode Plate Unit, Solid Electrolyte Membrane Unit, and Electrochemical Cell--

MAILING ADDRESS OF SENDER:

Perkins Coie LLP
P.O. Box 2168
Menlo Park, CA 94026

PATENT NO. 6,852,205

No. of additional copies:

⇨ 10

This correction 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 collections is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application 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 Correction Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT NO. : 6,852,205 B1
DATED : February 8, 2005
INVENTOR(S) : Manabu Toyoshima et al.



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

Title page,
Item [73], Assignee, please correct as follows:
-- **Shinko Pantec Co., Ltd.** --.
Item [87], PCT Pub. Date, should read -- **April 5, 2001** --.

Signed and Sealed this

Sixteenth Day of August, 2005

JON W. DUDAS
*Director of the United States Patent and Trademark Office*

UNITED STATES PATENT AND TRADEMARK OFFICE

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ELMAN TECHNOLOGY LAW, P.C.
P. O. BOX 209
SWARTHMORE, PA 19081

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Anthony Hooley | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7577260 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/18/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 10/089,025 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/21/2002 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1185** 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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WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Pierre Siohan | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7609611 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/27/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 10/089,026 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 07/02/2002 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **2062** 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.

MAY 2 2 2002

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#6

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

Jennifer D. Adamson
Shell Oil Company
Intellectual Property
P.O. Box 2463
Houston, TX 77252-2463

In re Application of VAN DEN BORN et al
U.S. Application No.: 10/089,028
Int. Application No.: PCT/EP00/09254
Int. Filing Date: 20 September 2000
Priority Date: 21 September 1999
Attorney Docket No.: TS0919US
For: PROCESS TO REMOVE SOLID SLAG PARTICLES FROM A MIXTURE OF SOLID SLAG PARTICLES AND WATER

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 26 March 2002.

## BACKGROUND

On 20 September 2000, applicant filed international application PCT/EP00/09254, which claimed priority of an earlier European Patent Office application filed 21 September 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 29 March 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 20 April 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 21 March 2002.

International application PCT/EP00/09254 became abandoned as to the United States at midnight on 21 March 2002 for failure to pay the basic national fee.

On 26 March 2002, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

## DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

## CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application has an international filing date of 20 September 2000 and a date under 35 U.S.C. 371 of 26 March 2002.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

25 JUN 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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David M. Tener
12th Floor, Seven Penn Center
1635 Market Street
Philadelphia, PA 19103-2212

| | | |
|---|---|---|
| In re Application of | : | |
| LIPP, Friedrich | : | |
| Application No.: 10/089,031 | : | |
| PCT No.: PCT/EP00/06030 | : | DECISION |
| Int. Filing Date: 28 June 2000 | : | |
| Priority Date: 29 September 1999 | : | |
| Attorney's Docket No.: M1211/20002 | : | |
| For: TRANSMITTING-RECEIVING DEVICE COMPRISING A CLOSED CARTESIAN FEEDBACK LOOP | : | |

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

On 28 June 2000, this international application was filed, claiming an earliest priority date of 29 September 1999.

On 30 January 2001, a Demand electing the United States was filed in this international application. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 29 March 2002. This international application became abandoned with respect to the United States at midnight on 29 March 2002 for failure to pay the required basic national fee on a timely manner.

On 26 March 2002, applicant filed in the United States Patent and Trademark Office (PTO) a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the U.S. basic national fee, a translation of the international application, and an executed declaration.

On 04 June 2002, the United States Designated/Elected Office erroneously mailed a Notification of Missing Requirements (Form PCT/DO/EO/905).

Accordingly, the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 04 June 2002 is **VACATED** with the mailing of this decision.

This application is being forwarded to the National Stage Processing Branch of the International Division for correcting and sending a Form PTO/DO/EO/903 and official filing receipt to applicant based on this decision and to continue the national stage processing of the above application.

Rafael Bacares
Legal Examiner
PCT Legal Office

Telephone: (703) 308-6312
Facsimile: (703) 308-6459

Leonard Smith
Legal Examiner
PCT Legal Office

17 APR 2003



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Karin H. Butchko
Carlson, Gaskey, & Olds, P.C.
400 West Maple Road, Suite 350
Birmingham, Michigan 48009

In re Application of
GRIMM et al.
U.S. Application No.: 10/089,032
PCT No.: PCT/EP00/09528
Int. Filing Date: 28 September 2000
Priority Date: 28 September 1999
Attorney Docket No.: 60130-1370
For: VEHICLE DOOR

DECISION ON PETITION
UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 19 February 2003 to accept the application without the signature of joint-inventor, Gregory Keyes.

## BACKGROUND

On 28 September 2000, applicants filed international application no. PCT/EP00/09528 which claimed a priority date of 28 September 1999 and which designated the United States. A proper Demand was filed with the International Preliminary Examination Authority prior to the 19th month from the earliest claimed priority date. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 28 March 2002.

On 26 March 2002, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); preliminary amendment; and an information disclosure statement.

On 20 June 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.492(a) and (b).

On 26 August 2002, applicants filed a Petition under 37 CFR 1.47(a) and the requisite fee and a declaration and power of attorney signed by ten of the eleven joint inventors. The petition under 37 CFR 1.47(a) was dismissed without prejudice in a Decision dated 12 December 2002.

On 19 February 2003, applicants filed "Renewed Petition under Rule 37 CFR 1.47(a)."

## DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1) and (3) have been satisfied.

As to item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated 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 nonsigning inventor for signature.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

Petitioner has provided sufficient information that a bona fide attempt was made present a copy of the application papers to the nonsigning inventor, however, the petition and accompanying papers does not provide proof that the nonsigning inventor has refused to join the present application. Horst Schumacher declares that "[w]e sent correspondence to Mr. Keyes by registered mail at his last known address on August 16, 2002 . . . The registered letter was delivered on August 24, 2002 and appears to be signed by Mr. Keyes" and has provided a copy of the letter mailed 24 August 2002 (Exhibit E) and a delivery certificate (Exhibit F) to Mr. Keyes. However, the delivery certificate has not been translated into English. Applicant's must provide a complete translation of the delivery certificate. Additionally, has any other attempts been made to reach the nonsigning

inventor since the initial filing under 37 CFR 1.47(a)?

As to Item (4), applicant states in the present petition that "a complete copy of the declaration was presented to each inventor, and the entire inventive entity appeared in the declaration as signed by the inventors." However, as stated in the previous decision, the declaration filed on 26 August 2002 is not in an acceptable form. Specifically, there is an issue as to whether the declaration has been properly executed. The declaration filed with the petition includes multiple duplicate sheets. It is unclear if the inventors were presented with only their signature page, in which case the execution would be improper, or if they were presented with a complete declaration for signing, but counsel subsequently compiled the declaration into the single document filed 26 August 2002, which is improper. (See MPEP 201.03, Page 200-7) Therefore, in order to satisfy this item, applicants are required to file a newly executed declaration which complies with 37 CFR 1.497(a) and (b).

For the reasons stated above, it would not be appropriate to accept the application without the signature of Gregory Keyes under 37 CFR 1.47(a) at this time.

## CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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

Anthony Smith

Anthony Smith
Attorney-Advisor
PCT Legal Office
Tel.: 703-308-6314
Fax: 703-308-6459

01 JUL 2003

#10

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Karin H. Butchko
Carlson, Gaskey, & Olds, P.C.
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Birmingham, Michigan 48009

In re Application of :
GRIMM et al. :
U.S. Application No.: 10/089,032 : DECISION ON PETITION
PCT No.: PCT/EP00/09528 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 28 September 2000 :
Priority Date: 28 September 1999 :
Attorney Docket No.: 60130-1370 :
For: VEHICLE DOOR :

This is a decision on applicants' (second) "Renewed Petition under 37 CFR 1.47(a)" filed 19 June 2003 to accept the application without the signature of joint-inventor, Gregory Keyes.

## BACKGROUND

On 28 September 2000, applicants filed international application no. PCT/EP00/09528 which claimed a priority date of 28 September 1999 and which designated the United States. A proper Demand was filed with the International Preliminary Examination Authority prior to the 19th month from the earliest claimed priority date. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 28 March 2002.

On 26 March 2002, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); preliminary amendment; and an information disclosure statement.

On 20 June 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.492(a) and (b).

On 26 August 2002, applicants filed a Petition under 37 CFR 1.47(a) and the requisite fee and a declaration and power of attorney signed by ten of the eleven joint inventors. The petition under 37 CFR 1.47(a) was dismissed without prejudice in a Decision dated 12 December 2002.

On 19 February 2003, applicants filed "Renewed Petition under Rule 37 CFR 1.47(a)." The petition was dismissed without prejudice in a Decision dated 17 April 2003.

On 19 June 2003, applicants filed the present renewed petition.

## DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1) and (3) have been satisfied.

A review of the present petition and the accompanying papers reveal that applicant has satisfied item (2), in that the applicant has shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Gregory Keyes. The steps taken by Horst Schumacher are sufficient to show that the non-signing has refused to execute the application.

As to item (4), the declarations filed on 19 June 2003 are in compliance with 37 CFR 1.497. A review of the application papers reveal that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage.

Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

## CONCLUSION

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

The application will be given an international filing date of 28 September 2000 under 35 U.S.C. 363, and a date of **19 June 2003** under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

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

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Fax: 703-308-6459

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01 JUL 2003

Gregory Keyes
28 Inverclyde Road
Handsworth Wood
Birmingham, West Midlands
B20 2LJ, United Kingdom

In re Application of
GRIMM et al.
U.S. Application No.: 10/089,032
PCT No.: PCT/EP00/09528
Int. Filing Date: 28 September 2000
Priority Date: 28 September 1999
Attorney Docket No.: 60130-1370
For: VEHICLE DOOR

Dear Mr. Keyes:

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

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.497.

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Fax: 703-308-6459

Karin H. Butchko
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12 DEC 2002

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#6

Karin H. Butchko
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Birmingham, Michigan 48009

In re Application of :
GRIMM et al. :
U.S. Application No.: 10/089,032 : DECISION ON PETITION
PCT No.: PCT/EP00/09528 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 28 September 2000 :
Priority Date: 28 September 1999 :
Attorney Docket No.: 60130-1370 :
For: VEHICLE DOOR :

This is a decision on applicants' "PETITION UNDER 37 CFR 1.47(a)" filed 26 August 2002 to accept the application without the signature of joint-inventor, Gregory Keyes. The required petition fee of $130.00 (37 CFR 1.17(h)) has been submitted.

## BACKGROUND

On 28 September 2000, applicants filed international application no. PCT/EP00/09528 which claimed a priority date of 28 September 1999 and which designated the United States. A proper Demand was filed with the International Preliminary Examination Authority prior to the 19th month from the earliest claimed priority date. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 28 March 2002.

On 26 March 2002, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); preliminary amendment; and an information disclosure statement.

On 20 June 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.492(a) and (b).

On 26 August 2002, applicants filed a Petition under 37 CFR 1.47(a) and the requisite fee and a declaration and power of attorney signed by ten of the eleven joint inventors.

## DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or

cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1) and (3) have been satisfied.

As to item (2), petitioner states that Gregory Keyes cannot be found or reached after diligent effort. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. It is important that the statement contain facts as opposed to conclusions.
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated 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 nonsigning inventor for signature.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

A review of the present petition reveals that petitioner has not satisfied item (2) above, in that the applicant has not shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Gregory Keyes. Does "application" mean a complete copy of the application was mailed to the nonsigning inventor? Additionally, petitioner alleges that inventor Gregory Keyes cannot be found or located. Petitioner states that "Konig also sent [sic] a copy of the application to Mr. Keyes at his last known address on August 16, 2002 via registered letter. To this date, Mr. Keyes has not responded, and Konig has not been able locate Mr. Keyes." The registered mail letter, provided by the petitioner, is unclear as to the delivery status of the letter. Was the registered letter(s) returned as undeliverable? Was the letter(s) received by Mr. Keyes or by someone at the last known address? Furthermore, it does not appear that the petitioner has first hand knowledge of all the facts.

In order to meet the requirements of 37 CFR 1.47(a) and Section 409.03(d) of the MPEP, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers was sent to Gregory Keyes, and when such papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

As to Item (4), a review of the declaration filed on 26 August 2002 reveals that declaration is not in an acceptable form. Specifically, there is an issue as to whether the declaration has been properly executed. The declaration filed with the petition includes multiple duplicate sheets. It is unclear if the inventors were presented with only their signature page, in which case the execution would be improper, or if they were presented with a complete declaration for signing, but counsel subsequently compiled the declaration into the single document filed 26 August 2002, which is improper. (See MPEP 201.03, Page 200-7)

For the reasons stated above, it would not be appropriate to accept the application without the signature of Gregory Keyes under 37 CFR 1.47(a) at this time.

## CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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

Anthony Smith
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05 AUG 2004

#7

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| | |
|---|---|
| In re Application of<br>BAUMANN et al.<br>Application No.: 10/089,053<br>PCT No.: PCT/DE01/02746<br>Int. Filing Date: 20 July 2001<br>Priority Date: 02 August 2000<br>Attorney Docket No.: 2081<br>For: DISC BRAKE THAT IS ACTUATED BY MEANS OF A BAND BRAKE DEVICE | DECISION ON<br><br>PETITION UNDER 37 CFR 1.181 |

This is a decision on applicant's 23 March 2004 "PETITION TO WITHDRAW HOLDING OF ABANDONMENT", requesting acceptance of declaration originally filed on 18 June 2002, in the United States Patent and Trademark Office (USPTO). The response is being treated as a petition under 37 CFR 1.181. No petition fee is required.

## BACKGROUND

On 22 March 2002, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee and English translation of the international application.

On 04 June 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b), an English translation of the international application and surcharge for filing the oath or declaration and processing fee for filing the English translation after the thirty month period, was required.

On 18 June 2002, applicant filed an executed declaration, in compliance with 37 CFR 1.497(a) & (b) and the $130 surcharge for filing the declaration after the 30 month period.

On 25 February 2004, a Notification of Abandonment was mailed to applicant indicating that applicant had failed to respond to the 04 June 2002 Notification of Missing Requirements.

On 23 March 2004, applicant filed, *inter alia*, a copy of an itemized postcard bearing a USPTO mail room date-stamped of 18 June 2002 indicating that executed declaration and surcharge were deposited with the USPTO on 18 June 2002.

## DISCUSSION

A review of the application file reveals that the original declaration filed on 18 June 2002 is located in the application file. A review of the application file also reveals that an English

translation of the international application is not necessary, as indicated in the Notification of Missing Requirements, as the English translation of the international application was filed with the request for entry into the U.S. national stage on 22 March 2002, prior to the expiration of the 30 month period (02 February 2003). Thus, a processing fee for filing the English translation after the thirty month period is not required..

A review of the declaration filed on 18 June 2002 indicates that the declaration identifies each inventor, and states the residency, citizenship and mailing address of each inventor and thus, is in compliance with 37 CFR 1.497(a) & (b) and acceptable. A review of the finance records for 10/089,053 indicates that the $130 surcharge for filing the declaration after the thirty month period was paid on 18 June 2002.

## CONCLUSION

The petition under 37 CFR 1.181 is **MOOT**. The declaration submitted on 18 June 2002 is acceptable and meet the requirements of 37 CFR 1.497(a) and (b).

The 25 February 2004 Notification of Abandonment is hereby **VACATED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **18 June 2002.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/11/07

Paper No.: ____

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/089081 Patent No.: 7142842 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:** _____

MATTHEW ANDERSON
SUPERVISORY PATENT EXAMINER

SPE

2618
Art Unit

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DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA VA 22314

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JUN 30 2005

OFFICE OF PETITIONS

In re Application of :
Sethi, et al. : ON PETITION
Application No. 10/089,102 :
Filed: July 31, 2002 :
Attorney Docket No. 02075 :
For: IMPLANT ALIGNMENT :

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

The petition is **granted**.

This application became abandoned on January 6, 2005 for failure to timely file drawings on or before January 5, 2005 as required by the Notice of Allowability mailed October 5, 2004. A Notice of Abandonment was mailed on May 20, 2005.

The instant petition contains the required corrected formal drawings, an acceptable statement regarding the unintentional nature of the delay in responding to the October 5, 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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**1727 KING STREET**
**SUITE 105**
**ALEXANDRIA VA 22314**

MAILED

NOV 10 2009

OFFICE OF PETITIONS

In re Patent No. 6,994,547
Issue Date: February 7, 2006
Application No. 10/089,102
Filed: April 19, 2002
Patentee(s): Ashok Sethi et al

: NOTICE

This is a notice regarding your request filed August 10, 2009 which is being treated as a request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The request is **DISMISSED**.

The request is dismissed because USPTO regulations require that papers filed in the application be signed by a registered attorney or agent, by the applicants (inventors) or by the assignee of the entire interest who has taken action in the application in accordance with 37 CFR 3.71. The request is signed by Mrs. Gillian Gascoigne. See 37 CFR 1.33(b).

The request states that a copy of a declaration signed by the Assignee confirming a large entity was enclosed. However, the signature is not legible and if signed by an assignee, the assignee must comply with 37 CFR 3.73(b). A blank copy is enclosed for your convenience.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Enclosed: Blank copy of Statement under 37 CFR 3.73(b)

cc:

**DENNEMEYER & CO LTD**
**REGENT HOUSE HEATON LANE**
**STOCKPORT CHESHIRE**
**ENGLAND SK4 1BB**

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DENNISON, SCHULTZ & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA VA 22314

In re Patent No. 6,994,547
Issue Date: February 7, 2006
Application No. 10/089,102
Filed: April 19, 2002
Patentee(s): Ashok Sethi et al

: NOTICE

This is a notice regarding your request filed August 10, 2009 which is being treated as a request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The request is **DISMISSED**.

The request is dismissed because USPTO regulations require that papers filed in the application be signed by a registered attorney or agent, by the applicants (inventors) or by the assignee of the entire interest who has taken action in the application in accordance with 37 CFR 3.71. The request is signed by Mrs. Gillian Gascoigne. See 37 CFR 1.33(b).

The request states that a copy of a declaration signed by the Assignee confirming a large entity was enclosed. However, the signature is not legible and if signed by an assignee, the assignee must comply with 37 CFR 3.73(b). A blank copy is enclosed for your convenience.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Enclosed: Blank copy of Statement under 37 CFR 3.73(b)

cc:

DENNEMEYER & CO LTD
REGENT HOUSE HEATON LANE
STOCKPORT CHESHIRE
ENGLAND SK4 1BB

# DENNEMEYER & CO LTD

Regent House Heaton Lane
Stockport Cheshire
England SK4 1BB

Tel: 0161-477 2567
Fax No: 0161-429 8063
gilliang@denpat.uk.com



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FEB 17 2010

OFFICE OF PETITIONS


Petitions Examiner – Office of Petitions
Commissioner of Patents and Trademarks
United States Patent and Trademark Office
PO BOX 1450
Alexandria VA 22313-1450
U S A

**Attn: Ms. Karen Creasy**

Monday, 08 February 2010

**Re: Patent 6994547 (serial number 10/089102)**
**1st maintenance fee due on 7 August 2009**

Dear Ms Creasy

We have received the enclosed notice from your office advising the fee deficiency submission has been dismissed for the above case.

Please find enclosed a new form requesting large entity status and we request the fee deficiency be accepted. If this letter is not sufficient, please give a detailed account of what is needed to give this patent a large entity status.

Please confirm receipt of this letter and we request confirmation that all is in order with this patent.

We thank you in advance for your assistance.

Very yours truly
Dennemeyer & Co Stockport
Payor Number: 287

Gillian Gascoigne

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FEB 17 2010

OFFICE OF PETITIONS

US-Patent 6,994,547 in the name of Ashok Sethi and Peter Sochor:

To whom it may concern:

DeguDent GmbH has the exclusive right to use US-Patent 6,994,547.
DeguDent GmbH is a large entity according to USPTO standards.

for DeguDent GmbH:

Signature .....

Signatory's full Name Dr. Udo Schusser Dr. Bernd Meier

Signatory's title Vice President R+D Vice President Production + Engineering

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Commissioner for Patents
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DENNISON, SCHULTZ & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA VA 22314

COPY MAILED
MAR 15 2010

In re Patent No. 6,994,547 :
Issue Date: February 7, 2006 :
Application No. 10/089,102 : NOTICE
Filed: April 19, 2002 :
Patentee(s): Ashok Sethi et al :

This is a notice regarding your communication filed November 16, 2009, which is being treated as a request for acceptance of a fee deficiency submission under 37 CFR 1.28(c).

The request is **DISMISSED**.

The request for acceptance of a fee deficiency submission under 37 CFR 1.28 (c) is dismissed because the request is not signed by a proper party. Counsel is encouraged to note 37 CFR 1.33(b) which reads:

> (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.

Applicant is given **ONE MONTH** to submit a properly signed request listing the fees erroneously paid as a small entity and the total fee deficiency to avoid the return of the present fee deficiency paper. This time period is not extendable under 37 CFR 1.136(a).

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

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

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

**DENNEMEYER & CO LTD**
**REGENT HOUSE HEATON LANE**
**STOCKPORT CHESHIRE**
**ENGLAND SK4 1BB**

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AKA CHAN LLP / CISCO
900 LAFAYETTE STREET
SUITE 710
SANTA CLARA, CA 95050

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NOV 30 2005

**OFFICE OF PETITIONS**

In re Application of :
Egnell, et al. :
Application No. 10/089,112 : ON PETITION
Filed: June 26, 2002 :
Attorney Docket No. CISCP728C1 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 23, 2005, 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, if applicable, on or before November 10, 2005. Accordingly, this application became abandoned on November 11, 2005.

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 (571) 272-3228.

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

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

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of :
Sunao TAKATORI et al. :
Application No. 10/089,122 : DECISION ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. **2222.6100001** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 12, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 13, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the Non-final Office action of March 12, 2007 is accepted as having been unintentional delay.

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

This application is being referred to Technology Center AU 3691 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND, OH 44114

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DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Rolf Farmont :
Application No. 10/089,129 : ON PETITION
Filed: June 24, 2002 :
Attorney Docket No. PS-13407 :

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

The petition is **GRANTED**.

The application became abandoned for failure to respond in a timely manner to a Notice of Drawing Inconsistency With Specification mailed May 25, 2004, which set a ONE MONTH or THIRTY (30) DAY period to respond. A Notice of Abandonment was mailed on July 21, 2004. In response, on October 25, 2004, the present petition was filed.

The application is being forwarded to the Office of Publications for consideration of the response filed October 25, 2004.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Status inquires related to processing at Publishing Division should be directed to (703) 308-6789.

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

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DENNIS G. LAPOINTE
LAPOINTE LAW GROUP PL
P O BOX 1294
TARPON SPRINGS, FL 34688-1294

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MAY 17 2005

OFFICE OF PETITIONS

In re Application of :
Tomaya Hidaka et al :
Application No. 10/089,131 : DECISION GRANTING PETITION
Filed: March 25, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1576.100 :

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

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on January 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 should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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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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APR 8 2004
Mailed:

spg
Paper Number 10

In re application of
Guy Lumia et al.
Serial No. 10/089,162
Filed: March 27, 2002
For: METHOD FOR TREATING AND EXTRACTING CORK ORGANIC COMPOUNDS, WITH A DENSE FLUID UNDER PRESSURE

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181, filed December 11, 2003. The petition requests that the abandonment, as set forth in the Notice of Abandonment of December 8, 2003, for failure to timely file a proper reply to the Office letter mailed April 21, 2003 be withdrawn since the applicants did timely file a reply on October 20, 2003. (Copies of the papers filed October 20, 2003 are attached to the instant petition as well as a copy of the USPTO date stamped postcard receipt.)

**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 October 20, 2003 as evidenced by the USPTO date stamped return receipt postcard indicating receipt of the reply at the USPTO on October 20, 2003. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed April 21, 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 October 20, 2003.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

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

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Mailed: 5/6/05

dss
Paper Number

In re application of
Michael Dutka et al.
Serial No. 10/089,162
Filed: December 31, 2001
For: WATER POWERED WASHING AND RINSING DEVICE

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181, filed October 04, 2004. The petition requests that the abandonment, for failure to timely file a proper reply to the Office letter mailed August 03, 2004; be withdrawn since the applicants did not receive the Office Action mailed August 03, 2004.

**DECISION**

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the application file history, indicates a Notice of Non-Compliance was mailed August 03, 2004 with a shorten statutory period of reply of one month with available extensions of time under 37 CFR 1.136(a). Thus, applicant's period of response was still running at the time of the petition and the case was never abandoned. Furthermore, applicant has filed a proper amendment at the sixth month date of February 03, 2005. Thus, the application was never abandoned in fact.

The application shall be forwarded to the examiner for entry, processing and consideration of the reply originally filed February 03, 2005.

The Petition is DISMISSED.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

David Peter Alan
81 Second Street
South Orange, NJ 07079

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MILLEN, WHITE,
ZELANO & BRANIGAN, P.C.
ARLINGTON COURTHOUSE PLAZA I
2200 CLARENDON BLVD., STE. 1400
ARLINGTON, VA 22201

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**OCT 20 2005**

**OFFICE OF PETITIONS**

In re Application of :
Fabian et al. :
Application No. 10/089,223 :
Filed: September 17, 2002 : REQUIREMENT
For: METHOD FOR BROMINATING : FOR INFORMATION
ORGANIC COMPOUNDS :

This is a decision on the Petition for Revival under 37 CFR 1.137(b), filed June 29, 2005, to revive the above-identified application. The delay in treating this petition is regretted.

Background

The above-identified application became abandoned for failure to timely reply to the Office action mailed June 2, 2003. The Office action set a one (1) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the above-identified application became abandoned July 3, 2004. A Notice of Abandonment was mailed on December 3, 2003.

Applicant files the instant petition and response to the June 2, 2003.

A decision on this petition will be held in abeyance for a period of **TWO MONTHS** from the date of this communication to permit petitioner to address following issue(s) before a decision is rendered. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b).

Requirement

Because the reply to the June 2, 2003, has been filed more than two years after the application became abandoned, Applicant must provide an explanation as to why 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) should be considered unintentional.

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

Derek L. Woods
Attorney
Office of Petitions

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ARLINGTON, VA 22201

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NOV 28 2005

OFFICE OF PETITIONS

In re Application of :
Fabian et al. :
Application No. 10/089,223 :
Filed: September 17, 2002 : DECISION
For: METHOD FOR BROMINATING : ON PETITION
ORGANIC COMPOUNDS :

This is a decision on the Petition for Revival under 37 CFR 1.137(b), filed June 29, 2005, and supplemented by the reply to the Requirement for Information, filed November 16, 2005, to revive the above-identified application.

Background

The above-identified application became abandoned for failure to timely reply to the Office action mailed June 2, 2003. The Office action set a one (1) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the above-identified application became abandoned July 3, 2004. A Notice of Abandonment was mailed on December 3, 2003.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). The reply to the June 2, 2003 Office action has been filed with the petition. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 1621 for continued examination in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 26 2006

MCDERMOTT WILL & EMERY, LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

| | |
|---|---|
| In re Application of | : |
| Toshihiro Sadaoka et al | : |
| Serial No.: 10/089,245 | : PETITION DECISION |
| Filed: August 21, 2002 | : |
| Attorney Docket No.: 050069-0111 | : |

This is in response to the petition under 37 CFR 1.181, filed May 17, 2006, requesting Supervisory review of an examiner's action relating to inventorship.

BACKGROUND

An abbreviated file history shows that applicants filed an Appeal Brief on December 15, 2004, in which rejections under 35 U.S.C. 102(f) over JP '820 and JP '248 were addressed as well as a separate rejection under 35 U.S.C. 103(a).

In view of the arguments presented in the Appeal Brief the examiner chose to reopen prosecution by mailing a non-Final Office action to applicants on March 30, 2005. The Office action again rejected claims 1-3 under 35 U.S.C. 112, second paragraph, as indefinite and under 35 U.S.C. 102(f) based on derivation over JP'820 and JP'248 and again required applicants to submit an affidavit attesting to the correct inventorship under 37 CFR 1.132. The examiner relied on M.P.E.P. 715.01(a) and 2137. Claims 1-3 were also rejected under 35 U.S.C. 103(a) as obvious over EP'723 in view of JP '336 and Fujii et al and JP'411.

Applicants replied on August 23, 2005, addressing each of the rejections above and arguing that an affidavit under 37 CFR 1.132 was unnecessary in view of applicants original declaration filed in the application in response to a Missing Parts letter.

The examiner mailed a Final Office action to applicants on November 17, 2005, maintaining the rejections under 35 U.S.C. 112, second paragraph, and 35 U.S.C. 103(a) for reasons of record. The examiner withdrew the rejection under 35 U.S.C. 102(f) for derivation, but maintained the requirement that an affidavit attesting to the inventorship be filed.

On February 17, 2006, applicants filed an amendment and argument amending claim 1 and arguing each of the rejections and requirement for an affidavit. In an Advisory Action mailed March 1, 2006, the examiner indicated entry of the amendment and withdrew the rejection under

35 U.S.C. 112, second paragraph, but maintained the other rejection under 35 U.S.C. 103(a) and requirement for an affidavit.

Applicants filed a Notice of Appeal on March 17, 2006, concurrently with this petition.

DISCUSSION

Applicants request that the Director require the examiner to withdraw the requirement for an affidavit under 37 CFR 1.132 to establish/confirm correct inventorship of this application in view of the subject matter of the claims being disclosed in the two Japanese application publications noted above which are not authored by the inventors of this application. Applicants argue that because there is no rejection under 35 U.S.C. 102(f) the examiner can no longer require an affidavit under 37 CFR 1.132 and that the originally filed declaration of the inventors is or should be sufficient to establish the correct inventorship.

The examiner relies on M.P.E.P. 2137 (and 715.01(a)) for the requirement for an affidavit.

M.P.E.P. 2137 states in part:

> **Where it can be shown that an applicant "derived" an invention from another, a rejection under 35 U.S.C. 102(f) is proper.** *Ex parte Kusko*, 215 USPQ 972, 974 (Bd. App. 1981) ("most, if not all, determinations under section 102(f) involve the question of whether one party derived an invention from another").
> .....
>
> **Where there is** a published article identifying the authorship ( MPEP § 715.01(c)) or **a patent identifying the inventorship ( MPEP § 715.01(a)) that discloses subject matter being claimed in an application undergoing examination**, the designation of authorship or **inventorship does not raise a presumption of inventorship with respect to the subject matter disclosed in the article or with respect to the subject matter disclosed but not claimed in the patent so as to justify a rejection under 35 U.S.C. 102(f). However, it is incumbent upon the inventors named in the application, in reply to an inquiry regarding the appropriate inventorship under subsection (f),** or to rebut a rejection under 35 U.S.C. 102(a) or (e), **to provide a satisfactory showing by way of affidavit under 37 CFR 1.132 that the inventorship of the application is correct in that the reference discloses subject matter invented by the applicant rather than derived from the author or patentee notwithstanding the authorship of the article or the inventorship of the patent.** *In re Katz*, 687 F.2d 450, 455, 215 USPQ 14, 18 (CCPA 1982) (inquiry is appropriate to clarify any ambiguity created by an article regarding inventorship, and it is then incumbent upon the applicant to provide "a satisfactory showing that would lead to a reasonable conclusion that [applicant] is the.inventor" of the subject matter disclosed in the article and claimed in the application).

M.P.E.P. 715.01(a) states:

> When subject matter, disclosed but not claimed in a patent or application publication filed jointly by S and another, is claimed in a later application filed by S, the joint patent or application publication is a valid reference >under 35 U.S.C. 102(a) or (e)< unless overcome by affidavit or declaration under 37 CFR 1.131 or an unequivocal declaration under 37 CFR 1.132 by S that he/she conceived or invented the subject matter disclosed in the patent or application publication

> and relied on in the rejection. *In re DeBaun*, 687 F.2d 459, 214 USPQ 933 (CCPA 1982). See MPEP § 716.10 for a discussion of the use of 37 CFR 1.132 affidavits or declarations to overcome rejections by establishing that the subject matter relied on in the patent or application publication was the invention of the applicant. Disclaimer by the other patentee or applicant of the application publication should not be required but, if submitted, may be accepted by the examiner.

It is clear that during the prosecution of this application the examiner raised an inquiry as to whether the inventors named herein invented the claimed subject matter of the application. The inquiry was properly raised under 35 U.S.C. 102(f). As noted above such an inquiry requires a reply by applicants as to the correct inventorship by means of an affidavit under 37 CFR 1.132, not just argument or assertion in a reply. However the section goes further to state that whether only an inquiry is made or when a formal rejection under 35 U.S.C. 102(f) is made a reply by applicants by means of an affidavit under 37 CFR 1.132 is required to overcome the inquiry or rejection. See bolded and underlined sections above. Such inquiry is not satisfied by the submission of the original declaration or oath (as the inquiry had not been made at that time) as the reply must include a showing which is not part of the oath or declaration required under 37 CFR 1.63.

In view of the above the examiner's actions in requiring an affidavit under 37 CFR 1.132, including a showing, to establish correctness of the inventorship is proper and will not be disturbed by the Director.

The petition is **DENIED**.

**Applicants remain under obligation to file an appropriate Appeal Brief or take other appropriate action within the time period set under 37 CFR 1.192, or as 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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**BROWDY AND NEIMARK, P.L.L.C.**
**624 NINTH STREET, NW**
**SUITE 300**
**WASHINGTON DC 20001-5303**

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APR 14 2010

OFFICE OF PETITIONS

In Re application of
Michael Langer et al.
Application No. 10/089,253
Filed: August 26, 2002
Attorney Docket No. LANGER=1

ON PETITION

This is a decision on the PETITION TO EXPUNGE PAPERS FROM APPLICATION, filed December 2, 2009 which is being treated as a petition under 37 CFR 1.59(b), to expunge information from the above identified application.

The petition is **granted**.

Petitioner requests that the issue fee transmittal form Part B, filed December 1, 2009 be expunged from the record. Petitioner states that the information was submitted in error. The petition fee has been charged to petitioner's deposit account.

The information in question has been determined by the undersigned to not be material to the examination of the instant application. The information was clearly intended to be filed in an unrelated application.

The expunged material has been removed from the official file.

The application is being returned to the Office of Data Management.

Telephone inquiries relative to this decision should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

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Paper No.

PROPAT, L.L.C.
425-C SOUTH SHARON AMITY ROAD
CHARLOTTE, NC 28211-2841

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**SEP 30 2005**

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Patent No. 6,838,042 | : | |
| Wieners et al. | : | |
| Issue Date: January 4, 2005 | : | DECISION ON |
| Application No. 10/089,261 | : | REQUEST FOR RECONSIDERATION |
| Filed: March 26, 2002 | : | OF |
| Atty Docket No. 99/N007 TPA | : | PATENT TERM ADJUSTMENT |

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN THE ISSUE NOTIFICATION (37 C.F.R. § 1.705," filed January 7, 2005. Patentees request that the patent term adjustment shown on the Issue Notification (and indicated in the patent) be corrected from one hundred seventy-six (176) days to two hundred ninety-six (296) or in the alternative, two hundred seventy-three (273) days.

The request for reconsideration of the patent term adjustment under § 1.705(d) is **DISMISSED**.

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

On January 4, 2005, application No. 10/089,261 matured into U.S. Patent No. 6,838,042. The instant request for reconsideration filed January 7, 2005, was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 176 days. The PTA of 296 days was reduced by 120 days pursuant to 37 CFR § 1.704(c)(10) for the submission of a paper after the mailing of the notice of allowance.

Patentees acknowledge submitting an English translation of a German parent application on July 8, 2004, after the mailing of the notice of allowance on July 8, 2004. Yet, patentees argue that the reduction under § 1.704(c)(10) should not be applicable in this case. Patentees contend, in the alternative, that the paper filed July 8, 2004 should be

i) considered under 37 CFR 1.704(c)(8) as a supplemental reply requested by the Office, due to the requirements of 37 CFR 1.55(4) and thus, no period of reduction should be entered;

ii) considered under 37 CFR 1.704(c)(8) as a supplemental reply causing a reduction of 23 days, as the Examiner did not make an express request for the English translation; or

iii) considered under 37 CFR 1.704(c)(10), but be categorized as a response to the Examiner's reasons for allowance, i.e. the Examiner allowed the case based on the removal of the cited references and thus, no period of reduction should be entered.

Patentees' arguments have been considered, but not found persuasive. The paper filed July 8, 2004, is not considered a supplemental response.

The filing of the paper filed July 8, 2004 after the mailing of a Notice of Allowance is properly a basis for reduction of patent term adjustment pursuant to § 1.704(c)(10).

37 CFR § 1.704(c)(10) provides that:

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 the paper was filed after the mailing of the Notice of Allowance. Accordingly, pursuant to § 1.704(c)(10), the patent term adjustment was properly reduced by the lesser period of four months.

By Notice entitled *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), the Director set forth examples of papers deemed not to cause substantial interference and delay in the patent issue process. The paper filed July 8, 2004, is not a Comments on Statements of Reasons for Allowance or merely a request to correct an error or omission in the Notice of Allowance or Notice of Allowability. Submission of a paper of the type submitted on July 8, 2004 was not identified in the Notice. Other than those papers identified in this Notice, all papers filed after allowance of an application substantially delay the Office's ability to process an application for a patent because the Office does not wait until payment of the Issue Fee to begin the patent issue process. As a result, 37 CFR 1.704(c)(10) does not distinguish between papers that are and are not required by the Office. Thus, filing of the paper after allowance will be treated as a failure to engage in reasonable efforts to conclude prosecution.

In view thereof, it is concluded that the patent properly issued with a revised Patent Term Adjustment of one hundred seventy-six (176) days.

Receipt is acknowledged of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kery A Fries
for

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

17 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#6

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

Calvin P. Griffith
Jones Day Reavis & Pogue
North Point
901 Lakeside Avenue
Cleveland, OH 44114

In re Application of :
GLASER, et al. :
U.S. Application No.: 10/089,277 :
PCT No.: PCT/EP01/00580 : DECISION ON PETITION
Int. Filing Date: 19 January 2001 :
Priority Date: 27 July 2000 : UNDER 37 CFR 1.47(a)
Attorney Docket No.: 313525600003 :
For: DEVICE FOR DETECTING CHANGES :
IN THE DENSITY OF A MEDIUM :

This decision is in response to applicant's "Petition Under 37 C.F.R. § 1.47(A) For Uncooperative Inventor Stergiopoulos" filed 21 October 2002 in the United States Patent and Trademark Office (USPTO).

## BACKGROUND

On 19 January 2001, applicant filed international application PCT/EP01/00580, which claimed priority of an earlier application filed 27 July 2000. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 07 February 2002. A Demand for international preliminary examination, in which the United States was elected, was not filed prior to the expiration of nineteen months from the priority date. Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 27 March 2002.

On 25 March 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and an English translation of the International Application. An executed oath or declaration was not included.

On 14 June 2002, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 21 October 2002, applicant responded with the present petition to accept the present oath or declaration without the signature of joint inventor Stergios Stergiopoulos accompanied by a petition for a two-month extension of time and a declaration executed by joint inventors Eckard Glaser, Miroslaw Wrobel and Janet Grassmann on their own behalf and on the behalf of the non-signing inventor, Stergios Stergiopoulos. With the filing of the petition for a two-month extension of time and payment of fee, applicant's petition is considered to be timely filed.

## DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(i), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. With the filing of the present petition and accompanying papers, applicant has satisfied all four items and it is appropriate to grant the petition under 37 CFR 1.47(a).

Regarding item (1), applicant has provided payment of the appropriate petition fee.

As to item (2), applicant has provided a signed declaration from Lorri W. Cooper detailing efforts to obtain the signature of Mr. Stergiopoulos; including sending a complete set of application papers to Mr. Stergiopoulos.

Regarding item (3), applicant has supplied a statement of the last known address of Mr. Stergiopoulos.

As to item (4), applicant has a combined declaration and power of attorney executed by Eckard Glaser, Miroslaw Wrobel and Janet Grassmann on their own behalf and on behalf of Mr. Stergiopoulos.

Accordingly, applicant has satisfied all four items detailed above and it is proper to grant applicant's petition at this time.

## CONCLUSION

For the reasons above, the petition is **GRANTED**.

The application has an international filing date of 19 January 2001 under 35 U.S.C. 363, and will be given a date of **21 October 2002** under 35 U.S.C. 371 (c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

Richard Cole
Legal Examiner
PCT Legal Office

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

17 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Mr. Stergios Stergiopoulos
124 Lawrence Avenue, East
Toronto, Ontario M4N-1S8
Canada

In re Application of
GLASER, et al.
U.S. Application No.: 10/089,277
PCT No.: PCT/EP01/00580
Int. Filing Date: 19 January 2001
Priority Date: 27 July 2000
Attorney Docket No.: 313525600003
For: DEVICE FOR DETECTING CHANGES
IN THE DENSITY OF A MEDIUM

Dear Mr. Stergiopoulos:

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

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

Richard Cole
Legal Examiner
PCT Legal Office

Derek A. Putonen
Attorney Advisor
PCT Legal Office

Calvin P. Griffith
Jones Day Reavis & Pogue
North Point
901 Lakeside Avenue
Cleveland, OH 44114

17 MAR 2003

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# OFFICIAL GAZETTE NOTICE

## 37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of a national stage application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Mr. Stergios Stergiopoulos) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/EP01/00580 and was filed on 19 January 2001 in the names of Eckard Glaser, Miroslaw Wrobel and Janet Grassmann and Stergios Stergiopoulos for the invention entitled DEVICE FOR DETECTING CHANGES IN THE DENSITY OF A MEDIUM. The national stage application number is 10/089,277 and has a 35 U.S.C. 371 date of 21 October 2002.

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Paper No. 12

JONES, DAY, REAVIS & POGUE
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901 Lakeside Avenue
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MAR 17 2004

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TECHNOLOGY CENTER 2800
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In re Application of:
Eckard Glaser et al.
Serial No.: 10/089,277
Filed: October 21, 2002
For: DEVICE FOR DETERMINING THE CHANGE IN THE DENSITY OF A MEDIUM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENT OF RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 25, 2003, and supplemented December 15, 2003[1].

The request is APPROVED.

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 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).

There is an outstanding Office action mailed October 27, 2003 to the Cleveland, Ohio address. A telephone conversation with Ms. Lorri Cooper revealed that the Office action was not received. Ms. Cooper requested that a copy of the Office action be facsimile transmitted to her for forwarding to the applicants. Since the Office action was not mailed to a correct correspondence address, the Office action will be remailed to the new address and the time to reply restarted to run from the date the Office action is remailed.

The request was signed by Lorri W. Cooper who was the sole attorney of record.

[1] The supplement is a resubmission of a paper filed earlier on April 14, 2003.

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.

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

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

CC: Adolf H. Elbert
Augustastrasse 8
32105 Bad Salzuflen
GERMANY

AIR MAIL

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Paper No.

ALSTON & BIRD LLP
PIONEER HI-BRED
INTERNATIONAL, INC.
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET,
SUITE 4000
CHARLOTTE NC 28280-4000

**COPY MAILED**

DEC 26 2006

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Dhugga et al. | : | DECISION ON APPLICATION |
| Application No. 10/089,281 | : | FOR |
| Filed: September 11, 2002 | : | PATENT TERM ADJUSTMENT |
| Atty Docket No. 35718/245940 | : | |

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. §1.705)," filed July 14, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred twenty-two (522) days to five hundred twenty-seven (527) days.

The application for patent term adjustment is **DISMISSED**.

On April 14, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 522 days. On July 14, 2006, applicants timely[1] submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is 527 days.

[1] PALM records indicate that the Issue Fee payment was also received on July 14, 2006.

Applicants dispute the reduction of 5 days associated with the Information Disclosure Statement (IDS) filed May 16, 2005. Applicants argue that as the Office subsequently vacated the Restriction Requirement on April 21, 2005, their IDS was effectively filed prior to the first Official Action, the Restriction Requirement of July 27, 2005.

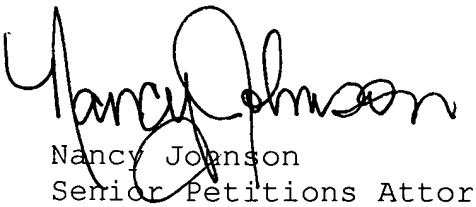
Applicants' argument is not persuasive. On April 21, 2005, the Office issued an action as a result of the examination conducted pursuant to 35 U.S.C. 131. Moreover, on May 11, 2005, applicants filed, without objection to the Office action, a response to that Office action. Further, after having filed that response on May 16, 2005 and before the Office mailed a second Office action, applicants filed an IDS. As this supplemental reply was not requested by the examiner and did not include a §1.704(d) statement, its filing, pursuant to 37 CFR 1.704(c)(8), was properly found to be a circumstance that constituted a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Accordingly, a period of reduction of 5 days was entered. The subsequent action in this case does not negate applicants' failure to engage by filing a supplemental reply after a reply had been filed.

In view thereof, the determination of patent term adjustment at the time of the mailing of the Notice of Allowance of five hundred twenty-two (522) days is correct.

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

The application is being forwarded to the 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 undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

22 JAN 2003
UNITED STATES PATENT AND TRADEMARK OFFICE

#10

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William F. Lawrence, Esq.
Frommer Lawrence & Haug LLP
745 Fifth Avenue
New York, NY 10151

| | | |
|---|---|---|
| In re Application of VERMEHREN et al | : | |
| U.S. Application No.: 10/089,288 | : | |
| Int. Application No.: PCT/EP00/09466 | : | DECISION |
| Int. Filing Date: 28 September 2000 | : | |
| Priority Date: 28 September 1999 | : | |
| Attorney Docket No.: 514413-3917 | : | |
| For: METHOD FOR PRODUCING SUBSTITUTED PHENYLSULFONYL CARBAMIDES FROM SULFOHALOGENIDES | : | |

This is in response to applicant's "Request for Refund" filed 18 December 2002.

## BACKGROUND

On 28 September 2000, applicant filed international application PCT/EP00/09466, which claimed priority of an earlier Germany application filed 28 September 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 05 April 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 26 April 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 March 2002.

On 26 March 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 18 June 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 18 December 2002, applicant filed the present request for refund along with an executed declaration and the fee for a four-month extension of time.

## DISCUSSION

Pursuant to 37 CFR 1.26(a), the USPTO may refund any fee paid in excess of that required. In the present case, applicant states that the extension of time fee paid 18 December 2002 should be refunded because the Notification of Missing Requirements was never received. However, applicant has not sufficiently established nonreciept of the Notification of Missing Requirements.

The showing required to establish nonreceipt of an Office action must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

With regard to item (1) above, applicant's representative has provided the required statement.

With regard to item (2) above, applicant's representative has provided the required statement.

With regard to item (3) above, the submitted docket listing for the present application is insufficient. Applicant's representative should supply a docket record which lists responses due to the USPTO on 18 August 2002 and 19 August 2002 for all cases handled by the representative's firm, or if such a docket record is unavailable, for all cases handled by applicant's representative. This docket record must illustrate the absence of any listing of a response due to a Notification of Missing Requirements.

Applicant is advised that the declaration filed 18 December 2002 is improper. Specifically, the declaration contains one cover page and two signature pages. It is not sufficient to submit only the signature page of a declaration, since doing so leaves doubt as to whether each respective signature page was associated with the cover page at the time of execution. Applicant must provide either: 1) a single complete declaration which is presented to an executed by all of the inventors or 2) multiple complete declarations, each of which is executed by at least one inventor.

## CONCLUSION

For the reasons above, the request for refund is DISMISSED without prejudice.

If reconsideration on the merits of the request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are

available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Request for Refund".

The application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917), stating that the declaration filed 18 December 2002 is improperly executed.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re Application of VERMEHREN et al | : | |
| U.S. Application No.: 10/089,288 | : | |
| Int. Application No.: PCT/EP00/09466 | : | DECISION |
| Int. Filing Date: 28 September 2000 | : | |
| Priority Date: 28 September 1999 | : | |
| Attorney Docket No.: 514413-3917 | : | |
| For: METHOD FOR PRODUCING SUBSTITUTED PHENYLSULFONYL CARBAMIDES FROM SULFOHALOGENIDES | : | |

This is in response to applicant's "Renewed Request for Refund" filed 13 March 2003.

## BACKGROUND

On 28 September 2000, applicant filed international application PCT/EP00/09466, which claimed priority of an earlier Germany application filed 28 September 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 05 April 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 26 April 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 March 2002.

On 26 March 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 18 June 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 18 December 2002, applicant filed a request for refund.

On 22 January 2003, this Office mailed a decision dismissing the 18 December 2002 request for refund.

On 13 February 2003, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that a properly executed oath or declaration must be filed.

On 13 March 2003, applicant filed the present renewed request for refund along with executed declarations.

## DISCUSSION

Pursuant to 37 CFR 1.26(a), the USPTO may refund any fee paid in excess of that required. In the present case, applicant states that the extension of time fee paid 18 December 2002 should be refunded because the Notification of Missing Requirements was never received. However, applicant has not sufficiently established nonreceipt of the Notification of Missing Requirements.

The showing required to establish nonreceipt of an Office action must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Applicant has previously satisfied items (1) and (2) above.

With regard to item (3) above, the renewed request states that it includes a docket record which lists responses due to the USPTO on 18 August 2002 and 19 August 2002 for all cases handled by applicant's representative. However, the first page of the submitted record lists responses due to the USPTO on 18 June 2002, not 18 August 2002.

The declarations filed 13 March 2003 are in compliance with 37 CFR 1.497.

## CONCLUSION

For the reasons above, the renewed request for refund is DISMISSED without prejudice.

If reconsideration on the merits of the request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Request for Refund".

The application has an International Filing Date of 28 September 2000 and a date under 35 U.S.C. 371(c) of 13 March 2003.

The application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

24 JAN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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| In re Application of VERMEHREN et al | : | |
| U.S. Application No.: 10/089,288 | : | |
| Int. Application No.: PCT/EP00/09466 | : | DECISION |
| Int. Filing Date: 28 September 2000 | : | |
| Priority Date: 28 September 1999 | : | |
| Attorney Docket No.: 514413-3917 | : | |
| For: METHOD FOR PRODUCING SUBSTITUTED PHENYLSULFONYL CARBAMIDES FROM SULFOHALOGENIDES | : | |

This is in response to applicant's "Renewed Request for Refund" filed 21 May 2003.

## BACKGROUND

On 28 September 2000, applicant filed international application PCT/EP00/09466, which claimed priority of an earlier Germany application filed 28 September 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 05 April 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 26 April 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 March 2002.

On 26 March 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 18 June 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 18 December 2002, applicant filed a request for refund.

On 22 January 2003, this Office mailed a decision dismissing the 18 December 2002 request for refund.

On 13 February 2003, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that a properly executed oath or declaration must be filed.

On 13 March 2003, applicant filed a renewed request for refund along with executed declarations.

On 19 March 2003, this Office mailed a decision dismissing the 13 March 2003 renewed request for refund.

On 21 May 2003, applicant filed the present renewed request for refund.

## DISCUSSION

Pursuant to 37 CFR 1.26(a), the USPTO may refund any fee paid in excess of that required. In the present case, applicant states that the extension of time fee paid 18 December 2002 should be refunded because the Notification of Missing Requirements was never received.

The showing required to establish nonreceipt of an Office action must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Applicant has previously satisfied items (1) and (2) above.

With regard to item (3) above, the renewed request includes a docket record which lists responses due to the USPTO on 18 August 2002 and 19 August 2002 for all cases handled by applicant's representative. The docket record indicates an absence of any listing for a response due to a Notification of Missing Requirements for the present application. Thus, it can be concluded with reasonable certainty that the Notification of Missing Requirements was never received.

## CONCLUSION

For the reasons above, the renewed request for refund is GRANTED.

The application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision including refunding $1,440.00 to Deposit Account No. 50-0320.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Cooper & Dunham LLP
1185 Avenue of the Americas
New York, NY 10036

MAR 14 2005

In re Application of:
Lorenz Feddersen
Serial No.: 10/089,291
Filed: March 27, 2002
Attorney Docket No.: 1175/66964

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a response to the "PETITION RE OFFICE ACTION MAILED JULY 2, 2003 AND NOT RECEIVED BY ADDRESSEE" filed on February 2, 2004. It is being treated as a petition under 37 C.F.R. § 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a response to the Office action mailed on July 2, 2003. Although no Notice of Abandonment was ever mailed, this application became abandoned by operation of law after the six month statutory period for response elapsed with no response being filed.

Petitioner asserts that "(n)either the firm's docketing system nor the firm's file for the application contains any record of the Office action." Although no docket records were provided, a review of the written record indicates that the Office action was mailed to the inventor instead of to petitioner.

On June 13, 2002, applicant's attorney (now petitioner) filed a paper titled "COMMUNICATION RE APPLICANT'S CHANGE OF ADDRESS". This paper was incorrectly perceived as a request to change correspondence address. Due to this perception, the Office action of July 2, 2003 was improperly mailed to the inventor instead of to the correspondence address previously of record (i.e., petitioner's address).

For the above-stated reason, the petition is granted.

The correspondence address will be changed back to the original correspondence address and the Office action of July 2, 2003 will be remailed to that address restarting the time period for response.

Any inquiry regarding this petition 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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Paper No. 14

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**POST OFFICE BOX 1404**
**ALEXANDRIA, VA 22313-1404**

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OFFICE OF PETITIONS

In re Application of
Isao Takasu et al
Application No. 10/089,302
Filed: March 29, 2002
Attorney Docket No. 029430-507

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

This is a decision on the petition, filed February 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 January 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1755 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

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28 NOV 2006

HARNESS, DICKEY & PIERCE, P.L.C.
P.O.BOX 8910
RESTON VA 20195

In re Application of
NIEDERNOSTHEIDE et al.
Application No.: 10/089,303
PCT No.: PCT/DE00/03440
Int. Filing Date: 29 September 2000
Priority Date: 30 September 1999
Attorney's Docket No.: 32860-000314/US
For: THYRISTOR ARRANGEMENT WITH TURNOFF PROTECTION.

DECISION ON PETITION

UNDER 37 CFR 1.181

This is in response to applicant's "Petition under 37 CFR 1.181 to Withdraw Holding of Abandonment" based upon a failure to receive an Office Action filed in the United States Patent and Trademark Office (USPTO) on 26 September 2006 alleging that applicant did not receive the Notification of Missing Requirements mailed on 17 June 2002.

## BACKGROUND

A review of the application file reveals that the NOTIFICATION OF MISSING REQUIREMENTS was mailed by the USPTO on 17 June 2002. The notification indicated that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. Applicant was given two months to respond to the Notification or until 17 August 2002 with extensions of time (up to 5 months) available under 37 CFR 1.136(a). No response to the Notification of Missing Requirements was received, and thus, the application was held to be **ABANDONED** as of midnight on 17 January 2003.

On 05 October 2004, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant. On 02 November 2004, applicant filed the instant petition to withdraw the holding of abandonment. Applicant refiled the petition on 26 September 2006 along with a status inquiry.

## DISCUSSION

In order to establish that papers were not received, a petition under 37 CFR 1.181 with a proper showing is required. As set forth in the Official Gazette at 1156 OG 53, the petition must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in practitioner's statement). No petition fee is required.

Item (2) is satisfied by the practitioner's statement attesting that a search of the file jacket and docket records indicated that the Office action was not received. However, Practitioner does

not make the statement that the Office action was not received by the practitioner; thus Item 1 is not yet satisfied.

With regard to Item (3), applicant submitted a copy of the "file jacket for the present application (Exhibit I) and the firm's docketing records for the present application (Exhibit II)" which "reveals that the Notification of Missing Requirements (Form PCT/DO/EO/905) dated June 17, 2002 was never received."

This docket record does not exclude the possibility that the "Notification of Missing Requirements" was in fact received by counsel's firm, but inadvertently docketed to the wrong attorney/application. The computer docket record relied upon by counsel establishes only that the Notification was not docketed in connection with the application's docket record, not that such Notification was not received. It is for this reason that the Office generally requires, as the appropriate docket record for establishing nonreceipt of an Office communication, a record of all USPTO responses dues on the due date for reply to the communication at issue (i.e., a listing of all replies due in the USPTO on 17 August 2002 for the present case). MPEP 711.03(c)IA. Counsel does not indicate that the records submitted represent the docket record where the non-received office action would have been entered had it been received.

The appropriate docket record for establishing nonreceipt of an Office communication, is a record of all USPTO responses dues on the due date for reply to the communication at issue (i.e., a listing of all replies due in the USPTO on 17 August 2002 for the present case).

Thus, applicant has not provided Practitioner's statement that the Office action was not received by the practitioner and has not provided the proper showing necessary to withdraw the holding of abandonment. The petition may not be properly granted at this time.

## CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision.

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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 272-0459

UNITED STATES PATENT AND TRADEMARK OFFICE
25 JAN 2007

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O.BOX 8910
RESTON VA 20195

| | |
|---|---|
| In re Application of<br>NIEDERNOSTHEIDE et al.<br>Application No.: 10/089,303<br>PCT No.: PCT/DE00/03440<br>Int. Filing Date: 29 September 2000<br>Priority Date: 30 September 1999<br>Attorney's Docket No.: 32860-000314/US<br>For: THYRISTOR ARRANGEMENT WITH TURNOFF PROTECTION | DECISION ON<br><br>RENEWED PETITION<br><br>UNDER 37 CFR 1.181 |

This is in response to applicant's "Renewed Petition under 37 CFR 1.181 to Withdraw Holding of Abandonment" based upon a failure to receive an Office Action filed in the United States Patent and Trademark Office (USPTO) on 08 December 2006 alleging that applicant did not receive the Notification of Missing Requirements mailed on 17 June 2002.

## BACKGROUND

A review of the application file reveals that the NOTIFICATION OF MISSING REQUIREMENTS was mailed by the USPTO on 17 June 2002. The notification indicated that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. Applicant was given two months to respond to the Notification or until 17 August 2002 with extensions of time (up to 5 months) available under 37 CFR 1.136(a). No response to the Notification of Missing Requirements was received, and thus, the application was held to be **ABANDONED** as of midnight on 17 January 2003.

On 05 October 2004, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant. On 02 November 2004, applicant filed the instant petition to withdraw the holding of abandonment. Applicant refiled the petition on 26 September 2006 along with a status inquiry.

On 28 November 2006, a decision dismissing the petition was mailed indicating that the docket record submitted did not provide conclusive proof that the Notification of Missing Requirements was not received.

On 08 December 2006, applicant filed a renewed petition.

## DISCUSSION

In order to establish that papers were not received, a petition under 37 CFR 1.181 with a proper showing is required. As set forth in the Official Gazette at 1156 OG 53, the petition must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records

indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in practitioner's statement). No petition fee is required.

Applicant has satisfied Items (1), (2) and (3) above with the statement that the Notification of Missing Requirements was not received, that a review of the file jacket and docket record book was completed and submission of a copy of the docket record where the non-received Office action would have been entered had it been received (that is, the docket record for 17 August 2002). Counsel has provided his docket record and explanation, showing all responses docketed for the USPTO mail date of 17 August 2002 showing that there was no record of a USPTO mailing for the present application. Thus, applicant has provided the proper showing necessary to withdraw the holding of abandonment and the petition may be properly granted at this time.

## CONCLUSION

Applicant's renewed petition under 37 CFR 1.181 to request to withdraw holding of abandonment is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing including issuance of a new Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration executed by the inventors, in compliance with 37 CFR 1.497(a) and (b), is required.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 272-0459

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 12/10/2008
Patent No. : 7,008,791 B1
Inventor(s) : Gregoriadis et al.
Issue Date : March 7, 2006
Title : **LIPOSOME-ENTRAPPED DNA ORAL VACCINES**
Doc./File No. : **G0365.0355/P355**

Re: Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting the alleged error(s) in your request, inspection of the file of the application for the patent reveals that column 10, lines 10, in the patent, is/are printed in accordance with the record in the Patent and Trademark Office, as passed to issued by the examiner. There being no fault on the part of the Patent and Trademark Office, it has no authority to issue a certificate of correction under the provision of 1.322.

In view if the foregoing, your request is hereby denied.

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch, accompanied by the appropriate fee which is presently $100, if necessary.

Ernest C. White, *LIE* (703) 308-9390 x122
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

Dickstein Shapiro Morin & Oshinsky
1177 Avenue of the Americas 41st Floor
New York NY 10036-2714

ecw

# 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) |
|---|---|---|---|---|
| 6,692,567 | 2004-02-17 | 10/089,323 | 2002-03-20 | 08-0357.08 |

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 | /Steven M. Clodfelter/ | Date (YYYY-MM-DD) | 2008-04-10 |
| Name | Steven M. Clodfelter | Registration Number | 34564 |

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. 6692567
Issue Date: February 17,2004
Application No. 10089323
Filed: March 20,2002
Attorney Docket No. 02-0121.01

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

This is a decision on the electronic petition, filed April 10,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 10,2008 . 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
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Alexandria, Virginia 22313-1450
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Jori Arrakoski | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7664049 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/16/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 10/089,326 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/09/2002 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1387** 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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**THE PROCTER & GAMBLE COMPANY**
**INTELLECTUAL PROPERTY DIVISION**
**WINTON HILL TECHNICAL CENTER - BOX 161**
**6110 CENTER HILL AVENUE**
**CINCINNATI OH 45224**

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AUG 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Bernhard Rieger et al :
Application No. 10/089,341 : ON PETITION
Filed: March 27, 2002 :
Attorney Docket No. CM2210MQL :

This is a decision on the petition under 37 CFR 1.137(b), filed June 29, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed March 25, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 26, 2004.

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

The application file is being referred to the Patent Publishing Division.

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
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Gerald F. Swiss
Burns Doane Swecker & Mathis
Post Office Box 1404
Alexandria, VA 22313-1404

In re Application of :
ELSLEY, David :
Application No.: 10/089,362 : NOTIFICATION OF
PCT No.: PCT/CA00/01112 : WITHDRAWING HOLDING OF
Int. Filing Date: 25 September 2000 : ABANDONMENT
Priority Date: 24 September 1999 :
Attorney Docket No.: 033136-269 :
For: COMBINED THERAPIES FOR ATHEROSCLEROSIS TREATMENT

The above-captioned application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371.

On 22 November 2002, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 CFR 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 14 January 2003, applicant filed a declaration and power of attorney.

On 05 March 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 22 November 2002 within the time period set therein.

In view of the receipt of the declaration and power of attorney filed 14 January 2003, which was a timely response to the Notification of Missing Requirements mailed 22 November 2002, the Notification of Abandonment mailed 05 March 2004 was in error and is hereby **VACATED**.

A review of the application papers reveals that applicant completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 25 September 2000 and a date of **14 January 2003** under 35 U.S.C. 371.

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

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

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United States Patent and Trademark Office
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FOLEY & LARDNER LLP
1530 PAGE MILL ROAD
PALO ALTO CA 94304

COPY MAILED
SEP 14 2006
OFFICE OF PETITIONS

In re Application of :
Elsley :
Application No. 10/089,362 : Decision on Application
Filing Date: January 14, 2003 : For Patent Term Adjustment
Attorney Docket No. 355908-2650 :

This is a decision in response to "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705," filed March 23, 2006. The paper requests correction of the patent term adjustment from one hundred eighty-five (185) days to four hundred forty-three (443) 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 forty-three (443) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 23, 2006, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised of a patent term adjustment to date of 185 days. In response, applicant timely[1] filed the instant request for reconsideration of the patent term adjustment. Applicant requests that the patent term adjustment be corrected to four hundred forty-three (443) days. Applicant asserts that the Office's delay pursuant to 37 C.F.R. § 1.703(a)(2) should be calculated as 443 days, not 327 days and applicant delay should be calculated as 0 days, not 142 days.

Applicant asserts that no circumstances exist within the prosecution of this application that may be considered as resulting in a failure to engage in reasonable efforts to conclude examination of the present application. Applicant states that the patent issuing from the application is not subject to a terminal disclaimer.

[1] PALM Records indicate that the Issue Fee payment was received on March 26, 2006.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 185 days is incorrect.

Applicant asserts that the patent term adjustment should not have been reduced by applicant's delay in filing a reply to the non-final Office action mailed February 4, 2005. The Office contended that a reply was received on September 23, 2005. Therefore, the Office charged applicant with 142 days of delay.

Applicant contends that a reply was timely filed via United States Postal Service (USPS) Express Mail on April 29, 2005. The Office has no record of receiving the April 29, 2005 reply.

On September 23, 2005 applicant filed a copy of the amendment purportedly filed on April 29, 2005 with a copy of Express Mail label receipt no. EV576633837 that cites a date-in of 4/29/05 and contains a postal stamp of APR 29 2005 affixed thereto. The same Express Mail receipt no. is listed on the amendment purportedly filed on April 29, 2005. Applicant did not specifically file a petition under 37 CFR 1.10(e) on September 23, 2005. However, petitioner did provide the evidence to show the September 23, 2005 amendment was a copy of an amendment mailed via Express Mail on April 29, 2005.

Paragraph (e) of 37 CFR 1.10 states that:

> Any person mailing correspondence addressed as set out in 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS, but not received by the Office, may petition the Commissioner to consider such correspondence as filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and
>
> (4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed

correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The 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 reply was deposited as "Express Mail" with the US Postal Service on April 29, 2005.

Accordingly, the amendment received in the Office on September 23, 2005 should have been considered as filed on April 29, 2005. Applicant should not have been charged with 142 days of delay in replying to the Office action mailed February 4, 2005.

Therefore, the Office delay in mailing the Notice of Allowance is 116 days. (Four months from the April 29, 2005 amendment or August 29, 2005 to December 23, 2005, which is the date the Notice of Allowance was mailed.)

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is four hundred forty-three (443) days.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment shown on the patent (and in the Issue Notification mailed approximately three weeks prior to issuance) will include any additional patent term accrued pursuant to sections 1.702(a)(4) and 1.703(b).

Telephone inquiries regarding this communication should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised Pair Screen

Day : Thursday
Date: 9/14/2006

PALM INTRANET

Time: 09:00:57

| PTA Calculations for Application: 10/089362 | | | |
|---|---|---|---|
| Application Filing Date: | 01/14/2003 | PTO Delay (PTO): | 327 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 142 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 443 |
| PTO Delay Adjustment: | 258 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 44 | 09/14/2006 | ADJUSTMENT OF PTA CALCULATION BY PTO | 142 | | |
| 43 | 09/14/2006 | ADJUSTMENT OF PTA CALCULATION BY PTO | 116 | | |
| 32 | 12/23/2005 | MAIL NOTICE OF ALLOWANCE | | | |
| 31 | 12/20/2005 | ISSUE REVISION COMPLETED | | | |
| 30 | 12/20/2005 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 29 | 12/20/2005 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 28 | 12/20/2005 | NOTICE OF ALLOWABILITY | | | |
| 27 | 09/23/2005 | OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL) | | | |
| 26 | 10/13/2005 | DATE FORWARDED TO EXAMINER | | | |
| 25 | 09/23/2005 | RESPONSE AFTER NON-FINAL ACTION | | 142 | 20 |
| 22 | 03/30/2005 | CORRESPONDENCE ADDRESS CHANGE | | | |
| 21 | 01/27/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 20 | 02/04/2005 | MAIL NON-FINAL REJECTION | 327 | | -1 |
| 19 | 02/03/2005 | NON-FINAL REJECTION | | | |
| 18 | 01/21/2005 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 16 | 01/21/2005 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 15 | 03/01/2004 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 14 | 01/14/2003 | 371 COMPLETION DATE | | | |
| 13 | 06/15/2004 | APPLICATION DISPATCHED FROM OIPE | | | |
| 12 | 06/15/2004 | NOTICE OF DO/EO ACCEPTANCE MAILED | | | |
| 11 | 01/14/2003 | ADDITIONAL APPLICATION FILING FEES | | | |
| 9 | 04/17/2003 | PRELIMINARY AMENDMENTS | | | |
| | | | | | |

| | | | | | |
|---|---|---|---|---|---|
| 8 | 01/14/2003 | A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC | | | |
| 7 | 03/05/2004 | WITHDRAW PRE-EXAM ABANDON | | | |
| 6 | 05/27/2004 | PETITION TO REVIVE APPLICATION - GRANTED | | | |
| 5 | 01/14/2003 | PETITION ENTERED | | | |
| 4 | 04/30/2004 | CLEARED BY OIPE CSR | | | |
| 3 | 03/04/2004 | ABANDONMENT -- INC. APPLICATION UNDER RULE 53(B) - FILING FEE PAID | | | |

**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

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#7

12 MAY 2003

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Charles Guttman
Proskauer Rose LLP
1585 Broadway
New York, NY 10036

In re Application of :
BOMER, et al. :
Application No.: 10/089,387 :
PCT No.: PCT/EP00/09572 : DECISION ON PETITION
Int. Filing Date: 29 September 2000 :
Priority Date: 01 October 1999 : UNDER 37 CFR 1.181
Attorney Docket No.: 20496327 :
For: FLAT GABLE COMPOSITE PACKING :
PROVIDED WITH A RESEALABLE :
SPOUT :

This decision is in response to applicant's papers filed on 23 January 2003 in the United States Patent and Trademark Office (USPTO). The papers are being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the present application.

## BACKGROUND

On 29 September 2000, applicant filed international application PCT/EP00/09572, which claimed priority of an earlier application filed 01 October 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 April 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 01 April 2002.

On 29 March 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia:* the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a translation of the international application into English; a First Preliminary Amendment and an Information Disclosure Statement. An executed oath or declaration of the inventors was not filed.

On 27 June 2002, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide a signed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. In addition, applicant was advised of the need to provide payment of the $130.00 surcharge for providing an oath or declaration of the inventors later than thirty months from the priority date. Applicant was provided two months to file the proper response and advised that this time

could be extended pursuant to 37 CFR 1.136(a).

On 27 November 2002, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) mailed 27 June 2002 within the time period set therein and that above-identified application was abandoned as to the United States.

On 23 January 2003, applicant responded with the present petition accompanied by an executed declaration, authorization to charge the $130.00 surcharge for providing an oath or declaration of the inventors later than thirty months from the priority date to Deposit Account No.: 16-2500, a petition for a five-month extension of time and authorization to charge the extension of time fee to Deposit Account No.: 16-2500.

## DISCUSSION

Applicant is correct that the Form PCT/DO/EO/905 mailed 27 June 2002 set a period of two months for response extendable up to five months with a proper petition and payment of the extension of time fee. As such, the response filed 23 January 2003 is considered timely filed. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

## CONCLUSION

Applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) mailed 27 November 2002 is hereby **VACATED**.

This application will be given an international application filing date of **29 September 2000** and a date of **23 January 2003** under 35 U.S.C. 371.

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

Leonard Smith
Legal Examiner
Office of PCT Legal Administration

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Frank Kowalewski | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7606548 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/20/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 10/089,395 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 07/17/2002 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1917** 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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AKIN GUMP STRAUSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA PA 19103

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MAR 16 2006

OFFICE OF PETITIONS

In re Application of
Kazunao Nakasuka et al.
Application No. 10/089,397
Filed: March 29, 2002
Attorney Docket No: **8861-426US(P25654-01)**

ON PETITION

This is a decision on the petition filed January 9, 2006, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned on August 9, 2005, for failure to file a timely response to the non-Final Office Action mailed May 6, 2005, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed November 16, 2005. Petitioner asserts that the non-Final Office Action was never received.

The file record discloses that the Office Action was mailed to the address of record which is the same address used on all correspondences from the USPTO including the Notice of Abandonment. Petitioner has provided a copy of the docket report and mail log, wherein receipt of the Office Action mailed May 6, 2005 would have been filed, had it been received. To show that the Notice mailed May 6, 2005 was not received, petitioner also explains that after searching the file jacket it was concluded that no correspondence was received for this matter from the USPTO,

In that the statement from the petitioner and the exhibit from the docket record and mail log for the instant matter show no entry indicating receipt of the non-Final Office Action mailed May 6, 2005, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Office Action.

In view of the facts set forth in the petition, it is concluded that the Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This matter is being referred to Technology Center 2652 for a re-mailing of the non-Final Office Action and for a restarting of the period for response.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE: B, Sircus

**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

Paper No.: _____

DATE : 6/7/06

TO SPE OF : ART UNIT 2836

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/089,406 Patent No.: 7046491

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:** Not PTO Mistake. See declaration Filed 8/8/02

BRIAN SIRCUS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

**SPE** 2836 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Date Mailed : 06/13/06

Patent No. : 7046491 B2
Patent Issued : 05/16/06
Docket No. : **01200.585**

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.

Respecting the alleged error in the documents filed on 05/31/06; please see attachment.
**"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome
For Cecelia Newman, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

Liniak Berenato
Longacre & White
Suite 240
6550 Rock Spring Drive
Bethesda MD 20817
LMN

SPE: B, Sircus

**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

Paper No.: _____

DATE : 6/7/06

TO SPE OF : ART UNIT 2836

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/089,406 Patent No.: 7046491

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:** Not PTO mistake. See declaration filed 8/8/02

BRIAN SIRCUS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

**SPE** 2836 **Art Unit**

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**OFFICE OF PETITIONS**

HAMRE, SCHUMANN, MUELLER & LARSON P.C.
P.O. BOX 2902-0902
MINNEAPOLIS, MN 55402

In re Application of Aikoh et al. :
Application No. 10/089,409 : Decision on Petition
Filing Date: March 28, 2002 :
Attorney Docket No. 10873.0882USWO :

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

The petition is **granted.**

A Notice of Allowance was mailed July 10, 2006. A reply was not matched with the file. As a result, a Notice of Abandonment was mailed November 15, 2006.

Petitioner contends an issue fee transmittal form authorizing the Office to charge the issue fee to petitioner's deposit account was filed by facsimile transmission on August 10, 2006.

The evidence of record satisfies the requirements of 37 CFR 1.8(b) and is sufficient to prove the issue fee was timely paid. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

As a courtesy, the Office notes the copy of the cover letter filed with the issue fee transmittal form includes a Certificate of Transmission with a date of August 9, 2006. In the future, petitioner should ensure all Certificate of Transmission dates are correct.

A review of the record indicates the Office charged $300 for a publication fee to petitioner's deposit account. The Office has credited the $300 back to petitioner's deposit account.

The Office of Publications will be informed of the instant decision and will prepare the application for issuance as a patent in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

31 JUL 2002

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WASHINGTON, D.C. 20231
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Joseph F. Hetz
BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, IL 60610

In re Application of
CHARVAT, George F.
U.S. Application No.: 10/089,415
PCT No.: PCT/US00/02541
Int. Filing Date: 01 February 2000
Priority Date: 19 February 1999
Attorney Docket No.: 742/226
For: METHOD AND APPARATUS FOR REGISTERING A TORQUE-TRANSMITTING TOOL . . .

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

Applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 26 March 2002 in the above-captioned application is hereby **GRANTED** as follows:

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

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

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

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.: X**

DATE : JUNE 21, 2005

TO SPE OF : ART UNIT 3682

SUBJECT : Request for Certificate of Correction for Appl. No.: 10089438 Patent No.: 6892598B2

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:** _____

RICHARD RIDLEY
SUPERVISORY PATENT EXAMINER
**SPE**

3682
**Art Unit**

11 JUN 2003
UNITED STATES PATENT AND TRADEMARK OFFICE

#8

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Burns, Doane, Swecker & Mathis, L.L.P.
P.O. Box 1404
Alexandria, Virginia 22313-1404

| | |
|---|---|
| In re Application of | |
| SZELENYI et al | DECISION ON |
| Application No.: 10/089,449 | |
| PCT No.: PCT/EP00/09392 | PETITION |
| Int. Filing Date: 26 September 2000 | |
| Priority Date: 30 September 1999 | UNDER 37 CFR 1.182 |
| Attorney's Docket No.: 0332885-010 | |
| For: NOVEL COMBINATIONS OF LOTEPREDNOL AND $\beta_2$- ADRENOCEPTOR AGONISTS | |

Applicants' "PETITION UNDER 37 CFR 1.182" filed 06 January 2003, to change the name of the co-inventor from Hildegard Poppe to Hildegard Kuss due to marriage is GRANTED as follows:

## BACKGROUND

On 04 June 2002, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for filing an oath or declaration later than 30 months from the priority date was required. The notification set a two-month time limit in which to respond.

On 28 June 2002, applicant filed declarations signed by the inventors. However Hildegard Kuss was identified as one of the inventors, whereas the international application indicated Hildegard Poppe Kuss as an inventor.

On 29 July 2002, the United States Designated/Elected Office mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating the second inventor's last name is different on the declaration than on the published International Application. The notification set a time limit of one month from the date of the mailing of the Notification or within the time remaining in the response set forth in the Notification of Missing Requirements (Form PCT/DO/EO/905), whichever is longer.

On 06 January 2003, applicant filed the present petition accompanied by a petition and fee for a five-month extension of time.

## DISCUSSION

The MPEP at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include the appropriate petition fee and an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or certified copy of the court order.

The required $130 petition fee has been paid.

The petition was accompanied by a declaration signed by Hildegard Kuss stating that she changed her named from Hildegard Poppe to Hildegard Kuss on the occasion of her marriage.

The papers have been reviewed and the papers are accepted. The declaration filed on 28 June 2002 is accepted.

Applicant's claim for priority is acknowledged. The application has an international filing date of 26 September 2000 under 35 U.S.C. 363 and a date of **28 June 20002** under 35 U.S.C. 371(c).

This application is being forwarded to the National Stage Processing Branch of the International Division for preparation and mailing of the Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903).

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

LES:ls

Telephone: (703) 308-6461
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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66 E. MAIN STREET
MARLTON, NJ 08053

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MAR 3 1 2009

**OFFICE OF PETITIONS**

In re Application of
Joshua W. Hamilton, et. al.
Application No. 10/089,475
Filed: August 12, 2002
Attorney Docket No. DC-0190

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

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 25, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed amendment.

It is noted that the present petition contains an incorrect registration number for Jane Massey Licata. However, the signature and registration number provided on the amendment filed on February 25, 2009, is sufficient to establish that petitioner is an attorney of record and registered before the United States Patent and Trademark Office. Therefore, the signature on the present petition is accepted.

The petition is **DISMISSED.**

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

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

Intermediate PCT Application No. PCT/US2000/027443 filed October 4, 2000 was filed within twelve months of the provisional Application for which priority is claimed. A reference to the prior-filed 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. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet (ADS) or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, is required.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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APR 0 1 2009

**OFFICE OF PETITIONS**

In re Application of :
Joshua W. Hamilton, et. al. :
Application No. 10/089,475 : DECISION ON PETITION
Filed: August 12, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. DC-0190 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 25, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed amendment.

It is noted that the present petition contains an incorrect registration number for Jane Massey Licata. However, the signature and registration number provided on the amendment filed on February 25, 2009, is sufficient to establish that petitioner is an attorney of record and registered before the United States Patent and Trademark Office. Therefore, the signature on the present petition is accepted.

The petition is **DISMISSED.**

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

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

Intermediate PCT Application No. PCT/US2000/027443 filed October 4, 2000 was filed within twelve months of the provisional Application for which priority is claimed. A reference to the prior-filed 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. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet (ADS) or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, is required.

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

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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

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66 E. MAIN STREET
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APR 23 2009

**OFFICE OF PETITIONS**

In re Application of :
Joshua W. Hamilton, et. al. :
Application No. 10/089,475 : DECISION ON PETITION
Filed: August 12, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. DC-0190 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed April 3, 2009 and supplemented on April 10, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed Application Data Sheet (ADS).

The renewed petition is **GRANTED.**

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

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

37 CFR § 1.78(a)(6) requires 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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

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

The application is being forwarded to Technology Center Art Unit 1646 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional applications.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 10/089,475 | 08/12/2002 | 1646 | 420 | DC-0190 | 11 | 3 |

**CONFIRMATION NO. 1040**

**CORRECTED FILING RECEIPT**

26259
LICATA & TYRRELL P.C.
66 E. MAIN STREET
MARLTON, NJ 08053

*OC00000035605461*

Date Mailed: 04/22/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

**Applicant(s)**

Joshua W Hamilton, Etna, NH;
Bruce A Stanton, Hanover, NH;

**Power of Attorney:**
Jane Licata--32257

**Domestic Priority data as claimed by applicant**

This application is a 371 of PCT/US00/27443 10/04/2000
which claims benefit of 60/194,274 04/03/2000
and claims benefit of 60/158,000 10/06/1999

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 04/21/2009

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/089,475**

**Projected Publication Date:** None, application is not eligible for pre-grant publication

**Non-Publication Request:** No

**Early Publication Request:** No
**** SMALL ENTITY ****

**Title**

Compositions and methods for modulating atp-binding cassette transmembrane reporter protein expression

**Preliminary Class**

536

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

## LICENSE FOR FOREIGN FILING UNDER

## Title 35, United States Code, Section 184

## Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

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

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Scarantino, Nagle, and Kim | : | DECISION ON PETITION |
| Application No. 10/089,483 | : | |
| Filed: 17 September, 2002 | : | |
| Atty Docket No. 9099-2IP | : | |

This is a decision on the petition under 37 CFR 1.183 and 1.48(a)(1), filed on 7 October, 2005, which is being treated as (1) a petition under 37 CFR 1.48(a) to amend the inventive entity by the addition of Stefan Ufer, Jason Fiering, and Bahram Ghaffarazadeh Kermani; (2) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(a)(2) which requires a statement from the person being added; and (3) a petition under 37 CFR 1.47(a), which requires an oath or declaration signed by all of the inventors.

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.

On 17 September, 2004, the application was filed with a declaration naming Charles W. Scarantino, H. Troy Nagle, and Chang-Soo Kim as joint inventors.

On 4 October, 2005, a non-final Office action was mailed, setting a three (3) month shortened statutory period for reply.

On 7 October, 2005, the present petitions under 37 CFR 1.47(a) and 1.48(a) were filed. Petitioners seek to add Ufer, Fiering, and Kermani as joint inventors. Petitioners further state that Ufer has refused to sign the statement of lack of deceptive intent required by 37 CFR 1.48(a) and the declaration required by 37 CFR 1.63 and 1.67. The petition is accompanied by consent of

the assignee(s), statements of lack of deceptive intent signed by Fiering and Kermani, and a declaration naming Scarantino, Nagle, Kim, Ufer, Fiering, and Kermani as the inventive entity, signed by all joint inventors except Ufer on behalf of themselves and inventor Ufer.

Petitioners further state, via the statement of registered patent attorney Elizabeth A. Stanek, that a copy of the declaration and the statement of lack of deceptive intent were sent to Ufer at his work address.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43, or 1.47;

(3) the fee set forth in 37 CFR 1.17(i); and

(4) the written consent of any existing assginee, if any of the originally named inventors has executed an assignment

The petition of record does not comply with items (1) and (2). As petitioners also request consideration under 37 CFR 1.47(a), and the petition under 37 CFR 1.47(a) is not grantable for reasons discussed *infra*, the petition under 37 CFR 1.183 to waive 1.48 will be dismissed without prejudice to reconsideration pending submission of a grantable petition under 37 CFR 1.47(a).

**Petition Under 37 CFR 1.183 to waive 37 CFR 1.48**

37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed.[1]

[1] MPEP 201.03(B).

Petitioners must show that the inability to obtain the statement from the inventor is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond their control. Under the circumstances of this case, petitioners should proceed as noted in more detail *infra* to make their showing in support of their request for waiver.

**Petition Under 37 CFR 1.47(a)**

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) and (5).

In regards to item (1), petitioners have not shown that Ufer was sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] Based on the showing of record, it does not appear that the specification, including claims, and the drawings, were among the application papers sent to the non-signing inventor.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration and, in this case, the statement of lack of deceptive intent pursuant to 37 CFR 1.48(a)) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in

[1] MPEP 409.03(d).

writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

With regards to item (5), it is noted a last known address for Ufer has not been specified. While the declaration and assignment were apparently sent to his work address, it appears that a residence address was included on the declaration filed with the petition. The last known address is that address at which the inventor customarily receives mail.[2] Ordinarily, the last known address will be the last known residence of the non-signing inventor.[3] Petitioners should specify, in their renewed petition, a last known address for the non-signing inventor. Additionally, the application papers and statement of lack of deceptive intent should be sent to the last known address of the inventor.

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 571.272.3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[2] See MPEP 605.03.

[3] MPEP 409.03(e).

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Scarantino, Nagle, and Kim | : | DECISION ON PETITION |
| Application No. 10/089,483 | : | |
| Filed: 17 September, 2002 | : | |
| Atty Docket No. 9099-2IP | : | |

This is a decision on the renewed petition under 37 CFR 1.183 and 1.48(a)(1), filed on 23 December, 2005, which is being treated as (1) a petition under 37 CFR 1.48(a) to amend the inventive entity by the addition of Stefan Ufer, Jason Fiering, and Bahram Ghaffarazadeh Kermani; (2) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(a)(2) which requires a statement from the person being added; and (3) a petition under 37 CFR 1.47(a), which requires an oath or declaration signed by all of the inventors.

The petition is again **DISMISSED**.

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

On 17 September, 2004, the application was filed with a declaration naming Charles W. Scarantino, H. Troy Nagle, and Chang-Soo Kim as joint inventors.

On 4 October, 2005, a non-final Office action was mailed, setting a three (3) month shortened statutory period for reply.

On 7 October, 2005, the present petitions under 37 CFR 1.47(a) and 1.48(a) were filed. Petitioners seek to add Ufer, Fiering, and Kermani as joint inventors. Petitioners further state that Ufer has refused to sign the statement of lack of deceptive intent required by 37 CFR 1.48(a) and the declaration required by 37 CFR 1.63 and 1.67. The petition is accompanied by consent of

the assignee(s), statements of lack of deceptive intent signed by Fiering and Kermani, and a declaration naming Scarantino, Nagle, Kim, Ufer, Fiering, and Kermani as the inventive entity, signed by all joint inventors except Ufer on behalf of themselves and inventor Ufer.

Petitioners aver, in the renewed petition, that a copy of the application, declaration, and statement of lack of deceptive intent were forwarded to the inventor sought to be added on 21 December, 2005. In support, petitioners have provided a copy of a letter, forwarding said papers to Ufer, and have provided his last known address.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43, or 1.47;

(3) the fee set forth in 37 CFR 1.17(i); and

(4) the written consent of any existing assginee, if any of the originally named inventors has executed an assignment

The petition of record does not comply with items (1) and (2). As petitioners also request consideration under 37 CFR 1.47(a), and the petition under 37 CFR 1.47(a) is not grantable for reasons discussed *infra*, the petition under 37 CFR 1.183 to waive 1.48 will be dismissed without prejudice to reconsideration pending submission of a grantable petition under 37 CFR 1.47(a).

**Petition Under 37 CFR 1.183 to waive 37 CFR 1.48**

37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed.[1]

[1] MPEP 201.03(B).

Petitioners must show that the inability to obtain the statement from the inventor is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond their control. Under the circumstances of this case, petitioners should proceed as noted in more detail *infra* to make their showing in support of their request for waiver.

**Petition Under 37 CFR 1.47(a)**

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1).

In regards to item (1), although petitioners have shown that Ufer was sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration), it is noted that the letter was mailed the same day that the petition was filed. The letter to Ufer indicates that he should return the declaration and statement of lack of deceptive intent not later than 9 January, 2006. As the petition was filed prior to 9 January, 2006, and was in fact filed on the same day that the application papers were sent to Ufer, it is premature to conclude, based on the showing of record, that Ufer has refused to sign and return the declaration and statement of lack of deceptive intent.

As the date specified in the letter for return of the documents has now passed, petitioners should indicate, in their renewed petition, whether any response was received from Ufer. If, after a reasonable period of time, no response is received, petitioners will have shown a constructive refusal on the part of Ufer to sign the declaration and statement of lack of deceptive intent.

If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 571.272.3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

09 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

| | |
|---|---|
| In re Application of SCARANTINO et al. | |
| Application No. 10/089,483 | |
| Int'l Application No.: PCT/00/08310 | |
| Int'l Filing Date: 29 March 2000 | DECISION ON PETITION |
| Priority Date: 29 September 1999 | |
| Attorney Docket No.: 9099-2IP | UNDER 37 CFR 1.78(a)(3) |
| Title: METHODS, COMPUTER PROGRAM PRODUCTS, AND DEVICES FOR CALIBRATING CHRONICALLY TISSUE IMPLANTED SENSORS USING CHRONICALLY TISSUE | |

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 06 January 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 amendment filed with the petition.

The petition is **DISMISSED AS MOOT** for the reasons stated below.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

37 CFR §§ 1.78(a)(2)(ii) indicates that the time periods set forth therein do not apply if the later-filed application is (1) an application for design patent; (2) an application filed under 35 U.S.C. §111(a) before November 29, 2000; and (3) a nonprovisional application which entered the national stage after compliance with 35 USC 371 from an international application filed under 35 USC 363 before November 29, 2000.

Since the instant nonprovisional application is the national stage entry of an international application filed **prior to** November 29, 2000, the provisions of 37 CFR 1.78(a)(3) for acceptance of a late claim for priority do not apply to the subject nonprovisional application. Accordingly, the petition is dismissed as involving a moot issue.

In view of the dismissal of the instant petition as moot, the $1370 fee submitted therefore is unnecessary. Accordingly, as authorized, this fee will be refunded to Deposit Account No. 50-0220 in due course.

Any inquiries concerning this decision may be directed to Cynthia Kratz at 571-272-3286.

This matter is being referred to Technology Center Art Unit 3736 for examination in due course.

Boris Milef
Legal Examiner
Office of Petitions
Office of PCT Legal Administration

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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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MYERS, BIEGEL, SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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JUN 0 8 2006
OFFICE OF PETITIONS

In re Application of :
Scarantino, Nagle, Kim, Ufer, : DECISION ON PETITION
Fiering, and Kermani :
Application No. 10/089,483 :
Filed: 17 September, 2002 :
Atty Docket No. 9099-2IP

This is a decision on the twice renewed petition under 37 CFR 1.183 and 1.47(a), filed on 31 March, 2006, which is being treated as (1) a petition under 37 CFR 1.48(a) to amend the inventive entity be the addition of Stefan Ufer, Jason Fiering, and Bahram Ghaffarzadeh Kermani; (2) a petition under 37 CFR 1.183 requesting waiver of 1.48(a)(2) which requires a statement from the persons being added, and (3) a petition under 37 CFR 1.47(a), which requires an oath or declaration signed by all of the inventors.

The petitions are **GRANTED**.

On 17 September, 2002, the application was filed with a declaration naming Charles W. Scarantino, H. Troy Nagle, and Chang-Soo Kim as joint inventors.

On 4 October, 2005, a non-final Office action was mailed, setting a three (3) month shortened statutory period for reply.

A petition petition under 37 CFR 1.47(a) and 1.48(a) was filed on 7 October, 2005. The petition was dismissed on 25 October, 2005. A renewed petition was filed on 23 December, 2005, and was dismissed on 30 January, 2006. The present second renewed petition was filed on 31 March, 2006 (certificate of mailing date 29 March, 2006). Petitioners seek to add Ufer, Fiering, and Kermani as joint inventors. Petitioners further state that Ufer has refused to sign the statement of lack of deceptive intent

required by 37 CFR 1.48(a) and the declaration required by 37 CFR 1.63 and 1.67. The petition is accompanied by consent of the assignee(s), statements of lack of deceptive intent signed by Fiering and Kermani, and a declaration naming Scarantino, Nagle, Kim, Ufer, Fiering, and Kermani as the inventive entity, signed by all joint inventors except Ufer on behalf of themselves and inventor Ufer.

Petitioners assert that a copy of the application was sent to Ufer on 21 December, 2005, but that he has failed to sign and return the declaration. Petitioners further state, in the present renewed petition, that Ufer has failed to sign and return the declaration.

**Petitions Under 1.183 and 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 and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43, or 1.47;

(3) the fee set forth in 37 CFR 1.17(i); and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment

As a result of papers filed on 31 March, 2006, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and, accordingly, this application has been corrected in compliance with 37 CFR 1.48(a)(2).

In view of the efforts recounted in the petition to obtain the signature of Stefan Ufer, it is agreed that justice would be served by waiving the requirement for his signature on the statement of lack of deceptive intent required by 37 CFR 1.48(a).

The inventorship of this application has been changed by the addition of: Stefan Ufer, Raleigh, North Carolina, Jason Fiering, Boston, Massachusetts, and Bahram Ghaffarzadeh Kermani, San Diego, California.

Office PALM records have been corrected to reflect the correct inventorship of the application. A corrected Filing Receipt is enclosed for petitioner's convenience.

**Petition Under 37 CFR 1.47(a).**

Petitioners have shown that the non-signing inventor could not be located despite diligent efforts. Specifically, petitioners have established although a copy of the application papers was sent to the last known address of the non-signing inventor, the inventor has failed to sign and return the delcaration.

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

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

The application is being referred to Technology Center Art Unit 3735 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 1,2005

TO SPE OF : ART UNIT 3721

SUBJECT : Request for Certificate of Correction for Appl. No. 10/089490 patent no.6886226

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:** _____

Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700

SPE Art Unit

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 1,2005

TO SPE OF : ART UNIT 3721

SUBJECT : Request for Certificate of Correction for Appl. No. 10/089490 patent no.6886226

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**

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**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:** _____

Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700

SPE Art Unit



PAGE 1/1 * RCVD AT 5/1/2007 10:54:33 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/17 * DNIS:2709942 * CSID:703 308 0131 * DURATION (mm-ss):01-14

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P O BOX 2550
SALT LAKE CITY UT 84110

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AUG 0 6 2007

OFFICE OF PETITIONS

In re Application of :

**BLAIR**, Steven M. :
Application No. 10/089,497 : DECISION ON PETITION
Filed: August 21, 2002 : TO WITHDRAW
Attorney Docket No. **4407.1US** : 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 09, 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 Allen C. Turner on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

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

Terri Williams

TerriWilliams
Petitions Examiner
Office of Petitions

cc: **STEVEN M. BLAIR**
**3434 E. 7590 SOUTH**
**SALT LAKE CITY, UT 84121**

cc: **VAUGHN NORTH**
**THORPE NORTH & WESTERN**
**8181 SOUTH 700 EAST, SUITE 350**
**SANDY, UT 84070**

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 |
|---|---|---|---|
| 10/089,497 | 08/21/2002 | Steven M Blair | 4407.1US |

**CONFIRMATION NO. 9592**

*OC000000025198136*

TraskBritt
P O Box 2550
Salt Lake City, UT 84110

Date Mailed: 08/06/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/09/2007.

- 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. Dover

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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Paper No. 8

MICHAEL Y. EPSTEIN
387 KING STREET APT A
CHARLESTON, SC 29403

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OCT 0 2 2003

OFFICE OF PETITIONS

In re Application of :
Elliot Wright :
Application No. 10/089,510 : NOTICE
Filed: October 8, 2002 :
Attorney Docket No.

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

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

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

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

This file is being forwarded to Technology Center 2600.

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

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OFFICE OF PETITIONS

MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

In re Application of :
Wada Makoto et al. :
Application No. 10/089,513 : DECISION ON PETITION
Filed: August 1, 2002 : TO WITHDRAW
Attorney Docket No. KYO002-US : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 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 request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Terri Williams
for

David Bucci
Petitions Examiner
Office of Petitions

cc: **Mr. Kenji Suzuki**
Patent Attorney
2-1-10-206
Sasazuka, Shibuya-ku
Tokyo, 151-0073
Japan

12 AUG 2002

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

CROWELL & MORING
P O BOX 14300
WASHINGTON, DC 20044-4300

Req. Recons. Pet. 1.181
Due: 10/12/02

In re Application of
WAGNER et al.
Application No.: 10/089,519
PCT No.: PCT/EP00/09447
Int. Filing Date: 27 September 2000
Priority Date: 01 October 1999
Attorney Docket No.: 1860/50907
For: DYNAMIC MIXER

DECISION ON

PETITION UNDER

37 CFR 1.181

This decision is in response to the "Response to Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" filed via facsimile transmission on 09 July 2002, which has been treated as a petition under 37 CFR 1.181. No petition fee is required.

## BACKGROUND

On 27 September 2000, applicants filed international application PCT/EP00/09447, which claimed a priority date of 01 October 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 12 April 2001. A Demand for international preliminary examination in which the United States was elected, was filed on 01 February 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 01 April 2002.

On 29 March 2002, applicants filed a Transmittal Letter (Form PTO-1390) for entry into the national stage under 35 U.S.C. 371 accompanied by, *inter alia*, a translation of the international application, and the U.S. Basic National Fee.

On 27 June 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION OF MISSING REQUIREMENTS set a two-month extendable time period.

On 09 July 2002, applicants submitted the instant "Response to Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)", which was accompanied by, *inter alia*, a date-stamped postcard receipt, a copy of an application data sheet and a copy of a declaration of the inventors.

## DISCUSSION

A review of the application file reveals that a declaration filed on 29 March 2002 is not located therein.

The postcard receipt submitted by applicants is not sufficient to establish that on 29 March 2002 the United States Designated/Elected Office (DO/EO/US) received a declaration of the inventors. On the copy of the postcard receipt, the copy quality is such that a substantial portion of the right of the postcard is darkened enough such that any text in that area is illegible and any possible annotation that might be in that area could be obscured. Also, the postcard receipt contains what appears to be a person's initials and a date. This notation has not been explained.

Additionally, it is not clear that applicant has provided a true copy of the declaration filed 29 March 2002. The petition states that "[e]nclosed with this response is a copy of the application data sheet and the executed Declaration that was filed on March 29, 2002." However, the copy of the application data sheet accompanying the petition is different than the application data sheet filed 29 March 2002 that is located in the file. For example, in the copy of the application data sheet accompanying the petition, the PCT application is listed under "PRIOR FOREIGN APPLICATIONS" while in the application data sheet filed 29 March 2002 that is located in the file, the PCT application is not listed under this heading. Thus, the statement in the petition that the copy of the application data sheet and the copy of the declaration accompanying the petition are copies of what was submitted on 29 March 2002 cannot be relied upon. Accordingly, it is not clear that the copy of declaration of inventors filed with the petition is a true copy of what was filed 29 March 2002.

## DECISION

The petition under 37 CFR 1.181 is **DISMISSED** for the reasons set forth above.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS form the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Daniel Stemmer
Legal Examiner
PCT Legal Affairs

Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

12 AUG 2002
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WASHINGTON, DC 20044-4300

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|---|---|---|
| In re Application of | : | |
| WAGNER et al. | : | |
| Application No.: 10/089,519 | : | DECISION ON |
| PCT No.: PCT/EP00/09447 | : | |
| Int. Filing Date: 27 September 2000 | : | PETITION UNDER |
| Priority Date: 01 October 1999 | : | |
| Attorney Docket No.: 1860/50907 | : | 37 CFR 1.181 |
| For: DYNAMIC MIXER | : | |

This decision is in response to the "Response to Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" filed via facsimile transmission on 09 July 2002, which has been treated as a petition under 37 CFR 1.181. No petition fee is required.

## BACKGROUND

On 27 September 2000, applicants filed international application PCT/EP00/09447, which claimed a priority date of 01 October 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 12 April 2001. A Demand for international preliminary examination in which the United States was elected, was filed on 01 February 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 01 April 2002.

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## DECISION

The petition under 37 CFR 1.181 is **DISMISSED** for the reasons set forth above.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS form the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Daniel Stemmer
Legal Examiner
PCT Legal Affairs

Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

08 JUL 2003

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WASHINGTON, DC 20231
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Donald D. Evenson
Crowell & Moring, LLP
P.O. Box 14300
Washington, DC 20044-4300

| | |
|---|---|
| In re Application of | : |
| Wagner et al. | : |
| Application No.: 10/089,519 | : |
| PCT No.: PCT/EP00/09447 | : |
| Int. Filing Date: 27 September 2000 | : DECISION |
| Priority Date: 01 October 1999 | : |
| Attorney's Docket No.: 1860/50907 | : |
| For: DYNAMIC MIXER | : |

This decision is in response to applicant's "Response to Decision on Petition under 37 C.F.R. 1.181" filed on 24 September 2002.

## BACKGROUND

On 27 September 2000, applicant filed international application PCT/EP00/09447 that claimed priority of an earlier German application filed 01 October 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 April 2001. A Demand for international preliminary examination, in which the United States was elected, was timely filed. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 01 April 2002.

On 29 March 2002, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, a translation of the international application and the basic national fee of $890 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/089,519.

On 27 June 2002, the United States Patent and Trademark Office (USPTO) in its capacity as an Elected Office mailed out a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for providing the oath or declaration later than thirty months from the priority date were required. The Notice set a two month extendable time period for response.

On 09 July 2002, applicant submitted a response which was accompanied by, *inter alia*, a date-stamped postcard receipt, a copy of an application data sheet and a copy of the declaration of the inventors.

On 12 August 2002, the USPTO sent applicant a decision indicating that the postcard receipt submitted by applicant was of such poor quality that a substantial portion was unreadable, and that applicant would need to explain the initials and the date on the postcard. The decision also indicated that the application data sheet filed with the response was not identical to the application data sheet filed with the original filing. Further, the decision indicated that it was not clear that the copy of the declaration filed with the petition was a true copy of the declaration that was filed 29 March 2002.

On 24 September 2002, applicant filed the current response which is accompanied by, *inter alia*, a legible copy of the postcard receipt, an explanation as to how the initials and date got on the postcard receipt and an explanation as to why the application data sheet provided on 09 July 2002 was not identical to that with the original filing.

## DISCUSSION

MPEP section 502 states, in part:

> If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The copy of the postcard receipt filed by applicant indicates that the executed declaration was filed with the initial filing on 29 March 2002. Applicant has indicated that the markings on the postcard receipt were placed on the postcard by attorney who check the filing to make sure all of the documents are included before the application is filed. Further, applicant has indicated that the application data sheet filed on 09 July 2002 was not in fact a true copy but was a draft copy in his file that was not properly marked. However, it is still not clear that the copy of the declaration filed with the petition was a true copy of the declaration that was filed 29 March 2002

## CONCLUSION

The current petition is **DISMISSED**.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Debra S. Brittingham
PCT Special Programs Examiner
PCT Legal Office

Conferee: Boris Milef
PCT Legal Examiner
PCT Legal Office

DSB/BM:dsb

Telephone: (703) 308-3401
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29 APR 2004

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| Int. Filing Date: 27 September 2000 | : DECISION |
| Priority Date: 01 October 1999 | : |
| Attorney's Docket No.: 1860/50907 | : |
| For: DYNAMIC MIXER | : |

This decision is in response to applicant's "Response to Decision on Petition under 37 C.F.R. 1.181" filed on 08 September 2003.

## BACKGROUND

On 27 September 2000, applicant filed international application PCT/EP00/09447 that claimed priority of an earlier German application filed 01 October 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 April 2001. A Demand for international preliminary examination, in which the United States was elected, was timely filed. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 01 April 2002.

On 29 March 2002, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, a translation of the international application and the basic national fee of $890 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/089,519.

On 27 June 2002, the United States Patent and Trademark Office (USPTO) in its capacity as an Elected Office mailed out a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for providing the oath or declaration later than thirty months from the priority date were required. The Notice set a two month extendable time period for response.

On 09 July 2002, applicant submitted a response which was accompanied by, *inter alia*, a date-stamped postcard receipt, a copy of an application data sheet and a copy of the declaration of the inventors.

On 12 August 2002, the USPTO sent applicant a decision indicating that the postcard receipt submitted by applicant was of such poor quality that a substantial portion was unreadable, and that applicant would need to explain the initials and the date on the postcard. The decision also indicated that the application data sheet filed with the response was not identical to the application data sheet filed with the original filing. Further, the decision indicated that it was not clear that the copy of the declaration filed with the petition was a true copy of the declaration that was filed 29 March 2002.

On 24 September 2002, applicant filed a response which was accompanied by, *inter alia*, a legible copy of the postcard receipt, an explanation as to how the initials and date got on the postcard receipt and an explanation as to why the application data sheet provided on 09 July 2002 was not identical to that with the original filing.

On 08 July 2003, the USPTO sent applicant a decision indicating that it was still not clear that the copy of the declaration filed with the petition was a true copy of the declaration that was filed 29 March 2002.

On 08 September 2003, applicant filed the current response which was accompanied by a declaration of Donald D. Evenson, a copy of the specification, application data sheet and declaration as filed on 29 March 2002.

## DISCUSSION

MPEP section 502 states, in part:

> If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The copy of the postcard receipt filed by applicant indicates that the executed declaration was filed with the initial filing on 29 March 2002. Applicant has indicated that the markings on the postcard receipt were placed on the postcard by the attorney who checks the filing to make sure all of the documents are included before the application is filed. Applicant has indicated that the copies of the specification, application data sheet and declaration are true copies of these documents as filed on 29 March 2002.

## CONCLUSION

The current petition is **GRANTED**.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision; and, if appropriate, a Notification of Acceptance of Application (Form PCT/DO/EO/903) will be mailed showing a 35 U.S.C. 371 date of 29 March 2002.

Debra S. Brittingham
PCT Special Programs Examiner
PCT Legal Office

Conferee: Richard Cole
PCT Legal Examiner
PCT Legal Office

DSB/RC:dsb
Telephone: (703) 308-3401
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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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THE MAXHAM FIRM
9330 SCRANTON ROAD, SUITE 350
SAN DIEGO, CA 92121

Mail Date: 04/21/2010

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|---|---|---|
| **Applicant** | : Michael Langer | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7634445 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 10/089,580 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 07/31/2002 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **2255** 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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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Joyce S. Plested | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7585510 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 10/089,583 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 07/11/2002 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **0** 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.

25 OCT 2002

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Stamford, CT 06901-2682

| | | |
|---|---|---|
| In re Application of | : | |
| CURRID | : | DECISION ON PETITION |
| Application No.: 10/089,587 | : | |
| PCT No.: PCT/GB97/03351 | : | UNDER 37 CFR 1.137(b) |
| Int. Filing Date: 04 December 1997 | : | |
| Priority Date: 04 December 1996 | : | |
| Attorney Docket No.: 232.7548USU | : | |
| For: NON-RETURN DEVICE | : | |

This decision is in response to applicant's "Petition For Revival of patent Application Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 29 March 2002. Applicant included the $1280.00 petition fee.

## BACKGROUND

On 04 December 1997, applicant filed international application PCT/GB97/03351, which claimed priority of an earlier application filed 04 December 1996. A Demand for international preliminary examination, in which the United States was elected was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 04 June 1999.

On 29 March 2002, applicant filed the present petition accompanied by a check in the amount of $1280.00; a transmittal letter for entering the U.S. national stage under 35 U.S.C. 371; payment of the U.S. basic national fee; a specification, preliminary amendment; a copy of the published international application; 2 sheets of drawings and a copy of the International Search Report.

## DISCUSSION

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

As to Item (1), the proper reply was payment of the full, U.S. basic national fee. Applicant has included a check in the amount of $890.00 as payment of this fee, thus satisfying Item (1) above.

With regard to Item (2), applicant included payment of the petition fee along with the present petition.

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

Thus, applicant has satisfied Items (1), (2) and (4) above.

Regarding Item (3), in his signed declaration, Mr. William Doughty states:

> In this discussion, Mr. Gale had indicated that Europe, the Middle East and Australasia were the intended markets for the product to which the patent applications related. I therefore instructed Marks & Clerk to cause the PCT application to enter the national phase in the appropriate states and they acted accordingly.

This statement appears to indicate that the decision not to enter the United States national stage in a timely manner was an intentional one and that only after a 28 July 2001 meeting between Mr. Doughty and Mr. Currid was a decision made to seek entry into the national stage in the United States. As such, before applicant's petition under 37 CFR 1.137(b) can be granted applicant must provide an explanation further detailing the decision-making which resulted in certain national stages being entered in a timely fashion on 04 June 1999 which shows that the lack of timely entry into the United States was truly unintentional and not a calculated business decision.

It is also noted that an additional eight months elapsed between the 28 July 2001 meeting of Messrs. Doughty and Currid and the filing of the present petition to revive. Applicant is advised to provide a more detailed explanation of this delay as two years had already passed from the deadline for entering the national stage and the 28 July 2001 discussion.

For the reasons stated above, the petition for revival cannot be granted at this time and the application remains abandoned.

## CONCLUSION

For the reasons stated above, the petition for revival is **DISMISSED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request

should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required.

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

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

05 JUN 2003

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Stamford, CT 06901-2682

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|---|---|---|
| In re Application of | : | |
| CURRID | : | DECISION ON RENEWED |
| Application No.: 10/089,587 | : | |
| PCT No.: PCT/GB97/03351 | : | PETITION UNDER |
| Int. Filing Date: 04 December 1997 | : | |
| Priority Date: 04 December 1996 | : | 37 CFR 1.137(b) |
| Attorney Docket No.: 232.7548USU | : | |
| For: NON-RETURN DEVICE | : | |

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.137(b)" filed 11 April 2003 in the United States Patent and Trademark Office (USPTO).

## BACKGROUND

On 25 October 2002, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.137(b). Applicant was afforded two months to file any request for reconsideration.

On 11 April 2003, applicant filed the present renewed petition under 37 CFR 1.137(b) accompanied by a request for a four-month extension of time and payment of the appropriate extension of time fee. With the filing of the request for a four-month extension of time and payment of the extension fee, applicant's renewed petition is considered timely filed.

## DISCUSSION

As detailed in the decision mailed 25 October 2002, a petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required). Applicant previously satisfied items (1), (2) and (4).

Applicant's original petition was dismissed in part because eight months elapsed between the discovery that applicant had not entered the national stage in the United States and the filing of applicant's original petition to revive. Applicant was advised to provide a more detailed

explanation of this delay as two years had passed from the deadline for entering the national stage and the 28 July 2001 discussion. The present declaration of Mr. Terence Reddick details that within a week of finding out that a national phase application had not been filed in the United States he instructed that a petition to revive be filed. The declaration further details the subsequent actions leading up to the filing of the petition on 29 March 2002. Applicant has provided a sufficient explanation for the delay.

Applicant's original petition was also dismissed because certain statements in the declaration of Mr. Raymond Doughty appeared to indicate that the decision not to enter the United States national stage in a timely manner was an intentional, business decision altered only after a 28 July 2001 meeting between Mr. Doughty and Mr. Currid. The filed Reddick declaration is unfortunately silent on this issue as it only explains actions taken after Mr. Reddick's 05 November 2001 meeting with Mr. Doughty. Applicant has not provided any further evidence to show that the decision made by Mr. Doughty not to file in the national stage in the United States was anything other than a deliberate action on behalf of the corporation. As stated in the Manual of Patent Examining Procedure (MPEP) section 711.03(c):

> An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See *In re Maldague*, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988)
>
> * * * * * *
>
> Likewise, a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previously deliberate decision to permit an application to be abandoned. These matters simply confuse the question of whether there was a deliberate decision not to continue the prosecution of an application with why there was a deliberate decision not to continue the prosecution of an application.

As stated in the decision mailed 25 October 2002, before applicant's application can be revived pursuant to 37 CFR 1.137(b) applicant must provide an explanation further detailing the decision-making which resulted in certain national stages being entered in a timely fashion on 04 June 1999 which shows that the lack of timely entry into the United States was truly unintentional and not a calculated business decision.

## CONCLUSION

For the reasons stated above, the renewed petition for revival is **DISMISSED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional

petition fee is required.

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

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One Landmark Square, 10th Floor
Stamford, CT 06901-2682

In re Application of
CURRID
Application No.: 10/089,587
PCT No.: PCT/GB97/03351
Int. Filing Date: 04 December 1997
Priority Date: 04 December 1996
Attorney Docket No.: 232.7548USU
For: NON-RETURN DEVICE

DECISION ON RENEWED PETITION UNDER 37 CFR 1.137(b)

This decision is in response to applicant's "Second Renewed Petition Under 37 CFR 1.137(b)" filed 01 October 2003 in the United States Patent and Trademark Office (USPTO).

## BACKGROUND

On 05 June 2003, applicant was mailed a decision dismissing applicant's renewed petition under 37 CFR 1.137(b). Applicant was afforded two months to file any request for reconsideration.

On 01 October 2003, applicant filed the present renewed petition under 37 CFR 1.137(b) accompanied by a request for a two-month extension of time and payment of the appropriate extension of time fee. With the filing of the request for a two-month extension of time and payment of the extension fee, applicant's second renewed petition is considered timely filed.

## DISCUSSION

As detailed in the decision mailed 05 June 2003, a petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required). Applicant previously satisfied items (1), (2) and (4).

Applicant's renewed petition was dismissed because applicant did not provided any further evidence to show that the decision made by Mr. Doughty not to file in the national stage in the United States was anything other than a deliberate action on behalf of the corporation. Applicant has presently submitted additional declarations from William Doughty and Stephen Currid which show that the failure to file a timely National Stage application in the United States was a result of confusion between Messrs. Doughty and Currid as to the phrase "previously agreed" countries. As such, it is proper to grant applicant's second renewed petition at this time.

## CONCLUSION

For the reasons stated above, the second renewed petition for revival is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventor and payment of the surcharge for providing an executed oath or declaration of the inventor later than thirty months from the priority date are required.

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

10/089591

**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**DATE** : 12/1/04

**Paper No.:** _____

**TO SPE OF** : ART UNIT 2854

**SUBJECT** : Request for Certificate of Correction on Patent No.: 6768313 B1

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

Please complete this form and return with file, within 7 days to:
**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:**

THE REQUEST FOR CORRECTION OF CLAIMS 3, 4, 6-8 AND 11-13 IS DENIED BECAUSE THERE IS NO ERROR IN THE DEPENDENCY OF THE ABOVE CLAIMS, THESE CLAIMS HAVE BEEN CORRECTLY RENUMBERED WHEN PROCCESING THE ALLOWANCE, AND THE PHRASE "for the" IN LINE 34 OF CLAIM 6 IS ALSO CORRECT, WHICH DO NOT NEED ANY CORRECTION.

ANDREW H. HIRSHFELD
SUPERVISORY ~~SPE~~ PATENT EXAMINER
TECHNOLOGY CENTER 2800

2854
**Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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~~April 27, 2005~~ 2/12/07

Eric B. Meyertons
**MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.**
P.O. Box 398
Austin, Texas 78767-0398

Patent No: 6768313 B1
Application No.: 10/089591
Applicant: Reino Koljonen
Issued: March 15, 2005
Title: **AUTOMOBILE LICENSE TAG SCANNING SYSTEM**

Request for Certificate of Correction:

Consideration had been given to your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

Respecting the alleged errors in claims 3, 4, 6-8, and 11-13. Per the examiner **"There is no error in the dependency of the above claims, these claims have been correctly renumbered when processing the allowance; and the phrase "for the" in line 34 of claim 6 is also correct, which do not need any correction".**

In view of the foregoing, your request in these matters is hereby **denied.**

Correspondence concerning this matter should be filed and directed to Decisions and Certificate of Correction Branch.

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificate of Correction
(703) 305-8309 or 308-9390 ext.113

vt

17 Rec'd PCT/PTO 23 SEP 2002

| CERTIFICATE OF MAILING<br>37 C.F.R. § 1.8 |
|---|
| 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: Assistant Commissioner for Patents, Washington, D.C. 20231, on the date below: |
| September 18, 2002<br>Date — Shelley P.M. Fussey |

**PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|---|---|---|
| In re Application of:<br>Sunil Ahuja, Enrique Gonzalez, Srinivas Mummidi, Matthew Dolan and Mike Bamshad | § | |
| Serial No.: 10/089,595 | § | Group Art Unit: Unknown |
| Filed: March 29, 2002 | § | Examiner: Unknown |
| For: Screening for Disease Susceptibility By Genotyping the CCR5 and CCR2 Genes | § | Atty. Dkt.: 4003.001600 |

**RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE**

**BOX PCT**
Commissioner for Patents
Washington, D.C. 20231

09/24/2002 SNAJARRO 00000076 10089595
01 FC:190 720.00 OP

Sir:

In response to Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) dated July 19, 2002, there are enclosed herewith:

(a) Declaration executed by Sunil Ajuha, Enrique Gonzales, Srinivas Mummidi, Matthew J. Dolan and Mike Bamshad;

(b) Powers of Attorney executed on behalf of Board of Regents, The University of Texas System; United States of Americas as represented by the Secretary of the Air Force; and University of Utah;

(c) A Request for Change of Status from Small Entity to Large Entity;

(d) Information Disclosure Statement, PTO Form 1449 and copies of References B1-B4 and C1-C26;

(e) Our check in the amount of $723.00 as payment of additional filing fees; and

(f) A copy of Notification of Missing Requirements.

Assignments to Board of Regents, The University of Texas System; United States of America as represented by the Secretary of the Air Force; and University of Utah, and a check for $120.00 are being filed under separate cover.

If the check is inadvertently omitted, or should any additional fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the enclosed materials, or should an overpayment be included herein, the Assistant Commissioner is authorized to deduct or credit said fees from or to Williams, Morgan & Amerson, P.C. Deposit Account No. 50-0786/4003.001600.

Please date stamp and return the accompanying postcard to evidence receipt of these documents.

Respectfully submitted,

Shelley P.M. Fussey
Reg. No. 39,458
Agent for Applicants

WILLIAMS, MORGAN & AMERSON, P.C.
7676 Hillmont, Suite 250
Houston, Texas, 77040
(713) 934-4079

Date: September 18, 2002

UNITED STATES 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. 6865828
Issue Date: March 15,2005
Application No. 10089596
Filed: August 16,2002
Attorney Docket No. Q77519

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

This is a decision on the electronic petition, filed May 8,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 8,2009 . 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.

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) |
|---|---|---|---|---|
| 6,865,828 | 2005-03-15 | 10/089,596 | 2002-08-16 | Q77519 |

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 | /Raja Saliba/ | Date (YYYY-MM-DD) | 2009-05-08 |
| Name | Raja Saliba | Registration Number | 43078 |

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.

31 JUL 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Peter F. Corless
EDWARDS & ANGELL, LLP
P.O. Box 9169
Boston, MA 02209

In re Application of
KOO, Suk-Jin *et al*
Application No.: 10/089,625
PCT No.: PCT/KR00/01138
Int. Filing Date: 12 October 2001
Priority Date: None
Attorney Docket No.: 57167/71970
For: HERBICIDALLY ACTIVE PYRIDINE SULFONYL UREA DERIVATIVES

**COMMUNICATION**

This communication is in response to the declaration submitted with the national stage papers on 29 March 2002.

The declaration was signed by all nine inventors. However, the ninth named inventors' name is listed as Jae-Wook RYOO on the declaration rather than the way it appears on the international publication, *i.e.*, Jae-Wook RYU. Counsel has not provided an explanation regarding the name change.

If the ninth named inventor changed his name legally, a petition under 37 CFR 1.182 is required. Section 605.04(c), *Inventor Changes Name*, of the MPEP lists the procedures required to change the name of an inventor and states, in part:

> The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

If, on the other hand, the ninth named inventor has not legally changed his name, a new declaration signed using the name listed on the international publication for each inventor is needed.

Applicants must provide a petition pursuant to 37 CFR 1.182, or submit a new oath or declaration in compliance with 37 CFR 1.497(a) and (b) within **TWO (2) MONTHS** of the date of mailing of this communication. Extensions of time pursuant to 37 CFR 1.136(a) are available.

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

Richard Cole
PCT Legal Examiner
PCT Legal Office

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

21 APR 2003

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Peter F. Corless
EDWARDS & ANGELL, LLP
P.O. Box 9169
Boston, MA 02209

In re Application of :
KOO, Suk-Jin *et al* :
Application No.: 10/089,625 :
PCT No.: PCT/KR00/01138 : **COMMUNICATION**
Int. Filing Date: 12 October 2001 :
Priority Date: None :
Attorney Docket No.: 57167/71970 :
For: HERBICIDALLY ACTIVE PYRIDINE :
SULFONYL UREA DERIVATIVES :

This communication is in response to the substitute declaration submitted with the "Transmittal for Missing Parts Filing" on 08 January 2003.

The substitute declaration was signed by all nine inventors and the ninth named inventors' name is listed the same way it appears on the international publication, *i.e.*, Jae-Wook RYU. The declaration is now in compliance with 37 CFR 1.497(a) and (b).

The communication mailed 31 July 2002 gave applicants two months to either provide a petition pursuant to 37 CFR 1.182, or submit a new oath or declaration in compliance with 37 CFR 1.497(a) and (b). Extensions of time pursuant to 37 CFR 1.136(a) were available.

Applicants responded with a declaration in compliance with 37 CFR 1.497(a) and (b) on 08 January 2003. Accordingly, a four-month extension of time fee of $1,450.00 (Fee Code 1251) has been charged to Deposit Account No. 04-1105 as authorized.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 12 October 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **08 January 2002**.

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

Applicants are advised that, effective May 1, 2003, the Office is changing its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of

the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

**COPY MAILED**

OCT 20 2004

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Shmaiser et al. | : | |
| Application No. 10/089,631 | : | ON PETITION |
| Filed: August 5, 2002 | : | |
| Attorney Docket No. UDY | : | |

This is a decision on the petition under 37 CFR 1.182, filed on April 28, 2004, which is being treated as a petition to defer issuance under 37 CFR 1.314.

The petition is granted.

In the absence of an extraordinary circumstance, it has been the policy of the Office to defer issuance of a patent, upon request, for a period of up to one month only. Note MPEP 1306.01. Accordingly, since the deferral period has now passed, the application will be referred to the Examiner for consideration of the IDS and amendment.

The matter is referred to Technology Center 2854.

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

28 SEP 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Fish & Richardson
225 Franklin Street
Boston MA 02110-2804

| | | |
|---|---|---|
| In re Application of | : | |
| PECHLANER, Andreas et al. | : | |
| Application No.: 10/089,650 | : | DECISION ON |
| PCT No.: PCT/EP00/09412 | : | |
| Int. Filing Date: 26 September 2000 | : | PETITION |
| Priority Date: 30 September 1999 | : | |
| Attorney Docket No.: 12816-046US1 | : | UNDER 37 CFR 1.182 |
| For: PROTECTION CIRCUIT FOR AN ACCESS-ARBITRATED BUS SYSTEM NETWORK | : | |

This decision is in response to "Petition to Reinstate Priority Claim," filed in the United States Patent and Trademark Office on 23 September 2005. The fee will be charged to deposit account no. 06-1050, as authorized.

## BACKGROUND

On 26 September 2000, applicants filed international application PCT/EP00/09412, claiming a priority date of 30 September 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 05 April 2001. The deadline for entry into the national stage in the United States was 01 April 2002 (30 March 2002 was a Saturday).

On 01 April 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 14 June 2002, the Office mailed Notification of Missing Requirements indicating that an oath or declaration and the surcharge for late filing of the oath or declaration were required.

On 14 August 2002, applicants submitted a declaration executed by the inventors.

On 23 September 2005, applicants filed the instant petition under 37 CFR 1.182.

## DISCUSSION

Applicants properly claimed priority to a German application in the international application, but failed to claim it in the national phase of the international. Applicants request that the Office correct their omission. The petition is Granted. The claim has been entered.

**CONCLUSION**

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

This application is being forwarded to Technology Center AU 2113 for continued processing.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**SCHWABE, WILLIAMSON & WYATT, P.C.**
**1420 FIFTH, SUITE 3010**
**SEATTLE, WA 98101**

MAILED

JUL 0 8 2009

OFFICE OF PETITIONS

In re Patent No. **7,080,254**
Issue Date: July 18, 2006
Application No. 10/089,662
Filed: February 18, 2003
Attorney Docket No. **120427-167859**

DECISION ON PETITION
UNDER 37 CFR 3.81(b)

This is a decision on the petition filed March 9, 2009, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "FRANCE TELECOM, TELEDIFFUSION DE FRANCE and MATH RIZK."

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 [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment from Louis Guillou, et al. to FRANCE TELECOM, TELEDIFFUSION DE FRANCE and MATH RIZK was recorded on October 31, 2008, **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

Telephone inquiries concerning this decision on petition should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: **STEVEN M. KOEHLER**
**WESTMAN CHAMPLIN & KELLY, PA.**
**900 SECOND AVENUE SOUTH, SUITE 1400**
**MINNEAPOLIS, MN 55402-3244**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

1-20-09

Patent No. : 7,080,254
Ser. No. : 10/089,662
Inventor(s) : Guillou, et. al.
Issued : July 18, 2006

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

*In the Request*, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

Steven M. Koehler
Westman, Champlin & Kelly, PA
140 International Centre
900 Second Avenue South
Minneapolis, MN 55402

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

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

COPY MAILED

FEB 0 1 2005

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Jone Edland | : | |
| Application No. 10/089,673 | : | DECISION GRANTING PETITION |
| Filed: April 2, 2002 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 7885.83USWO | : | |

This is a decision on the petition, filed January 31, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on September 23, 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 3723 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).*

14 AUG 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Melissa W. Acosta
Fulbright & Jaworski LLP
1301 McKinney, Suite 5100
Houston, TX 77010-3095

| | | |
|---|---|---|
| In re Application of | : | |
| ANDERSON, Robert et al. | : | |
| Application No.: 10/089,700 | : | DECISION ON |
| PCT No.: PCT/GB00/03760 | : | |
| Int. Filing Date: 02 October 2000 | : | PETITION |
| Priority Date: 01 October 1999 | : | |
| Attorney Docket No.: HO-P02416US0 | : | UNDER 37 CFR 1.181 |
| For: DIAGNOSIS OF COELIAC DISEASE USING A GLIADIN EPITOPE | : | |

This decision is in response to "Petition Under 1.181(a) to Request to Withdraw Holding of Abandonment," filed with the United States Patent and Trademark Office on 09 January 2003.

## BACKGROUND

On 02 October 2000, applicant filed international application PCT/GB00/03760. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 12 April 2001. On 19 April 2001, applicant filed a Demand for international preliminary examination, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty month period for paying the basic national fee in the United States expired on 01 April 2002.

On 01 April 2002, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 29 May 2002, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 27 November 2002, the Office mailed Notice of Abandonment indicating that the application went abandoned for failure to timely reply to the Notice to File Missing Parts mailed 29 May 2002.

On 09 January 2003, applicants submitted the instant petition under 37 CFR 1.181, accompanied by an executed declaration.

On 10 July 2003, applicants submitted a docket record of the items docketed for response on 29 July 2002.

On 12 August 2003, applicants submitted "Supplement to Petition Under 1.181(a) to Request to Withdraw Holding of Abandonment".

## DISCUSSION

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Practitioner states that the Notification of Missing Requirements was not received. Applicants assert that they have searched the docket records and there is no indication that the Notification was received. Applicants have supplied the docket records for the day on which a response to the Notification would have been docketed.

The declaration submitted with this petition complies with 37 CFR 1.497(a)-(b).

## CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 27 November 2002 is **VACATED**.

The Notification of Missing Requirements with a mail date of 29 May 2002 is **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing. The application has an international filing date of 02 October 2000 under 35 U.S.C. §363 and a date of **09 January 2003** under 35 U.S.C. §371.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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NORTEL
INTELLECTUAL PROPERTY LAW GROUP
2221 Lakeside Blvd
MS 991/14/B50
RICHARDSON, TX 75082-4399

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Mohamed Khalil | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7590843 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 10/089,752 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/12/2002 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1675** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Patent No. : 6935585 B1
Ser. No. : 10/089,788
Inventor(s) : HOBSON, BARRY REGINALD
Issued : 08/30/05
Title : **GRINDING HEAD**
Docket No. : **780/9-1663**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

*In the Request*, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

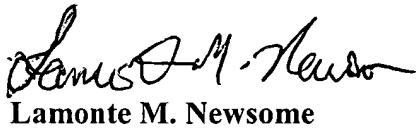
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.



**Lamonte M. Newsome**
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

**William J Sapone**
**Coleman Sudol Sapone**
**714 Colorado Avenue**
**Bridgeport CT 06605-1601**

LMN

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William J. Sapone
Coleman Sudol Sapone
714 Colorado Avenue
Bridgeport, CT 06605-1601

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OFFICE OF PETITIONS

In re Patent No. 6,935,585 :
Issue Date: August 30, 2005 :
Application No. 10/089,788 : ON PETITION
Filed: October 28, 2002 :
Patentee(s): Barry Reginald Hobson :

This is a decision on the request under 37 CFR 3.81[1] filed on May 1, 2006, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. The delay in responding is regretted.

The request is **GRANTED**.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See Official Gazette of June 22, 2004*

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DLA PIPER RUDNICK GRAY CARY US, LLP
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

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MAY 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Toshio Miyato :
Application No. 10/089,789 : ON PETITION
Filed: April 2, 2002 :
Attorney Docket No. SHIM1130 :

This is a decision in response to the petition, filed by April 22, 2005, requesting that the above-identified application be withdrawn from issue pursuant to 37 CFR 1.313(c)(2).

The petition is **DISMISSED AS MOOT**.

A review of the record discloses that the Director of Technology Center 1600 withdrew this application from issue by a decision mailed April 15, 2005. Accordingly, the present petition is unnecessary. The accompanying Request for Continued Examination (RCE) and Information Disclosure Statement (IDS) will be placed in the file without further consideration.

The application is being referred to Technology Center 1616.

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

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

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NOV - 6 2003

Paper No. 9

In re Application of :
Josep Torrents I Comas : DECISION ON PETITION
Application No. 10/089,806 :
Filed: August 13, 2002 :
Attorney Docket No. P/2789-58

This is a decision on the petition filed by on October 14, 2003 by which petitioner requests withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the Office action dated March 31, 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 a timely and proper reply to the Office letter in question was in fact filed. Petitioner supports this allegation by furnishing a copy of the reply and request for a two month extension of time. It is noted that the extension has affixed thereto a 37 CFR 1.8(a) certificate of mailing dated September 2, 2003, the first business day after August 31, 2003. It is considered that the 37 CFR 1.8(a) certificate refers to both papers. Petitioner has also furnished a copy of a post card receipt for the filing of papers on September 5, 2003 which references this application, refers to a two month extension of time, but also refers to the filing of a Notice of Missing Parts. As a response to a Notice of Missing Parts was not filed on September 2, 2003, but was previously filed in August, 2003, the post card receipt is considered to refer to a Notice of Missing Parts in error and is taken to confirm the applicability of the 37 CFR 1.8(a) certificate to both the extension and the reply. Therefore, in accordance with 37 CFR 1.8(b), it is clear that petitioner has established the timely filing of a reply to the Office letter in question.

Based upon the evidence submitted with the petition, it is clear that this application is not in fact 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 examiner for action on the reply filed on September 5, 2003, certificate of mailing date September 2, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Ostrolenk Faber Gerb & Soffen
1180 Avenue of the Americas
New York, NY 10036-8403

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Oppenheimer Wolff & Donnely
2029 Century Park East 38th Floor
Los Angeles CA 90067-3024

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FEB 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Licon et al :
Application No.10/089,807 : ON PETITION
Filed: April 3, 2002 :
Attorney Docket Number: 310048-488 :
Title of Invention: Apparatus For High :
Throughput Production of Coat Material :
Arrays, and Analytical Methods Using Such
Arrays

This is a decision on the petition filed November 17, 2005, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fee (s) Due which was mailed October 5, 2004. 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 6, 2005. A Notice of Abandonment was mailed on February 18, 2005.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

A power of attorney and 3.73 (b) statement were submitted with the instant petition. However, the power of attorney submitted does not revoke any prior authorizations for representation. Accordingly, the power of attorney requesting the entry of customer number 24201 cannot be entered without revoking the power of attorney to Alan Rose. It is also noted that the correspondence address provided on the petition differs from the correspondence address of record. Petitioner has not submitted a change of correspondence address. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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SONNENSCHEIN NATH & ROSENTHAL LLP
PO BOX 061080
WACKER DRIVE STATION SEARS TOWER
CHICAGO IL 60606-1080

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application | : | |
| Ryuichi Ugajin | : | |
| Application No. 10/089,857 | : | DECISION ON APPLICATION |
| Filed: April 2, 2002 | : | FOR PATENT TERM ADJUSTMENT |
| Atty Docket No. 9794353-0020 | : | |

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT" filed June 28, 2006. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from forty-five (45) days to two hundred seventy-nine (279) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **two hundred seventy-nine (279) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 24, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is forty-five (45) days. On June 28, 2006, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is two hundred seventy-nine (279) days.

Applicants assert entitlement to a patent term adjustment of two hundred seventy-nine (279) days on the basis that the PTO improperly assessed Applicants a delay of one hundred seventy-six (176) days for responding to a September 20, 2004 final Office action by filing an RCE on June 14, 2005. Applicants assert that they filed the RCE on January 19, 2005.

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 forty-five (45) based on an adjustment for PTO delay of two hundred twenty-four (224) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) and thirty-eight (38) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. 1.703(a)(2), reduced by Applicants' delays of thirty-nine (39), one hundred seventy-six (176), and two (2) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(b). The adjustment of one hundred seventy-six (176) days is at issue.

The adjustment of one hundred seventy-six (176) days has been found to be incorrect. Applicants have submitted a copy of a postcard receipt for the instant application, itemizing an RCE, and bearing a USPTO date stamp of January 19, 2005. 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 Applicant should only have been assessed delay of thirty (30) days for filing the RCE on January 19, 2005, not one hundred seventy-nine (179) days.

---

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

[2] MPEP 503.

Furthermore, as Applicant filed the RCE on January 19, 2005, the Office should have been assessed additional delay in not mailing a response until August 15, 2005. Office delay should have been assessed as eighty-eight (88) days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **two hundred seventy-nine (279) days** (350 (38+88+224) days of PTO delay and 71 (2+30+39) days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 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 A Fries

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

Enclosure: Copy of Revised PAIR Screen

Day : Monday
Date: 10/2/2006

PALM INTRANET

Time: 12:03:54

| PTA Calculations for Application: 10/089857 | | | |
|---|---|---|---|
| Application Filing Date: | 04/02/2002 | PTO Delay (PTO): | 262 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 217 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 279 |
| PTO Delay Adjustment: | 234 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 53 | 10/02/2006 | ADJUSTMENT OF PTA CALCULATION BY PTO | 234 | | |
| 45 | 04/24/2006 | MAIL NOTICE OF ALLOWANCE | 38 | | 40 |
| 44 | 02/06/2006 | ISSUE REVISION COMPLETED | | | |
| 43 | 02/06/2006 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 42 | 02/03/2006 | NOTICE OF ALLOWABILITY | | | |
| 41 | 11/25/2005 | DATE FORWARDED TO EXAMINER | | | |
| 40 | 11/17/2005 | RESPONSE AFTER NON-FINAL ACTION | | 2 | 39 |
| 39 | 08/15/2005 | MAIL NON-FINAL REJECTION | | | |
| 38 | 08/12/2005 | NON-FINAL REJECTION | | | |
| 37 | 06/16/2005 | DATE FORWARDED TO EXAMINER | | | |
| 36 | 06/14/2005 | AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE | | | |
| 35 | 06/16/2005 | DATE FORWARDED TO EXAMINER | | | |
| 34 | 06/14/2005 | REQUEST FOR CONTINUED EXAMINATION (RCE) | | 176 | 22 |
| 33 | 06/16/2005 | DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA) | | | |
| 32 | 06/14/2005 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 31 | 06/14/2005 | WORKFLOW - REQUEST FOR RCE - BEGIN | | | |
| 30 | 03/31/2005 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 29 | 01/19/2005 | WORKFLOW - REQUEST FOR RCE - BEGIN | | | |
| 28 | 12/09/2004 | MAIL ADVISORY ACTION (PTOL - 303) | | | |
| 27 | 12/06/2004 | ADVISORY ACTION (PTOL-303) | | | |
| 26 | 11/29/2004 | DATE FORWARDED TO EXAMINER | | | |
| 25 | 11/22/2004 | AMENDMENT AFTER FINAL REJECTION | | | |

| | | | | | |
|---|---|---|---|---|---|
| 24 | 11/29/2004 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 23 | 11/22/2004 | WORKFLOW INCOMING AMENDMENT IFW | | | |
| 22 | 09/20/2004 | MAIL FINAL REJECTION (PTOL - 326) | | | |
| 21 | 09/20/2004 | FINAL REJECTION | | | |
| 20 | 07/15/2004 | DATE FORWARDED TO EXAMINER | | | |
| 19 | 05/21/2004 | RESPONSE AFTER NON-FINAL ACTION | | 39 | 16 |
| 18 | 05/21/2004 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 17 | 05/21/2004 | WORKFLOW INCOMING AMENDMENT IFW | | | |
| 16 | 01/12/2004 | MAIL NON-FINAL REJECTION | 224 | | -1 |
| 15 | 01/09/2004 | NON-FINAL REJECTION | | | |
| 14 | 01/09/2004 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 13 | 03/10/2003 | TRANSFER INQUIRY TO GAU | | | |
| 12 | 12/20/2002 | TRANSFER INQUIRY TO GAU | | | |
| 11 | 12/15/2002 | TRANSFER INQUIRY TO GAU | | | |
| 10 | 12/02/2002 | TRANSFER INQUIRY TO GAU | | | |
| 9 | 12/02/2002 | TRANSFER INQUIRY TO GAU | | | |
| 8 | 12/02/2002 | TRANSFER INQUIRY TO GAU | | | |
| 7 | 12/02/2002 | TRANSFER INQUIRY TO GAU | | | |
| 6 | 04/02/2002 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 5 | 04/02/2002 | PRELIMINARY AMENDMENT | | | |
| 4 | 06/27/2002 | APPLICATION DISPATCHED FROM OIPE | | | |
| 3 | 06/25/2002 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 2 | 06/18/2002 | NOTICE OF DO/EO ACCEPTANCE MAILED | | | |
| 1 | 04/02/2002 | 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

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/26/07

Paper No.: —

TO SPE OF : ART UNIT 2615

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/089861 Patent No: 7236609B1

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

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

*VIRGINIA TOLBERT*
**Certificates of Correction Branch**
**703-308-9390 ext. 113**

**Thank You For Your Assistance**

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

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

**Comments:** The Request for Certificate of Correction filed 10/22/07 has been approved

SPE

2615
Art Unit

10/089 861

CofC/X

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Attention: Certificate of Correction Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: 10/17/07 Signature: (Anthony G. Sitko)

Docket No.: 30521/458A
(PATENT)

OIPE IAP8 OCT 22 2007 PATENT & TRADEMARK OFFICE

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Letters Patent of:
Panos Tsangaris et al.

Patent No.: 7,236,609

Issued: June 26, 2007

For: ELECTRO-ACOUSTIC TRANSDUCER WITH RESISTANCE TO SHOCK-WAVES

OK to enter
3/10/08

**REQUEST FOR CERTIFICATE OF CORRECTION**
**PURSUANT TO 37 CFR 1.323**

Certificate OCT 24 2007 of Correction

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

Dear Sir:

Upon reviewing the above-identified patent, Patentee noted typographical errors which should be corrected.

On the First Page:

In the signed Declaration, page 2, 2nd named Inventor, PTO error, "Thomas E." should be -- Thomas F. --.

In the Issue Fee Transmittal, Block 3, Applicant error, "LLC." should be -- LLC --.

At Specification page 1, lines 7-8, PTO error, add -- U.S. Pat. No. 5,647,013, filed July 8, 1997 --.

In the Issue Fee Transmittal, Block 2, Applicant error, "Marshall" should be -- Marshall, --.

10/23/2007 ATRIHH 00000010 7236609
01 FC:1811
100.00 OP
OCT 24 2007

In the Claims:

In the Amendment dated November 17, 2006, page 3, Claim 41, PTO error, add entire claim -- The transducer of claim 39 (1), wherein the tapered portion comprises each of the first portion and the second portion. --.

The errors were found in the application as filed by applicant. Our check in the amount of $100.00 covering the fee set forth in 37 CFR 1.20(a) is enclosed.

The errors now sought to be corrected are inadvertent typographical errors the correction of which does not involve new matter or require reexamination.

Transmitted herewith is a proposed Certificate of Correction effecting such amendment. Patentee respectfully solicits the granting of the requested Certificate of Correction.

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. 13-2855, under Order No. 30521/458A.

Dated: 10/17/07

Respectfully submitted,

By
Anthony G. Sitko
Registration No.: 36,278
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357
(312) 474-6300
Attorney for Applicants



OCT 24 2007

PTO/SB/44 (04-05)
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

# UNITED STATES PATENT AND TRADEMARK OFFICE
## CERTIFICATE OF CORRECTION



| | | |
|---|---|---|
| PATENT NO. | : | 7,236,609 |
| APPLICATION NO. | : | 10/089,861 |
| ISSUE DATE | : | June 26, 2007 |
| INVENTOR(S) | : | Paris Tsangaris 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 First Page:

At field (75), "Thomas E." should be -- Thomas F. --.

At field (73), "LLC." should be – LLC --.

In the Related U.S. Application Data, add -- U.S. Pat. No. 5,647,013, filed July 8, 1997 --.

At field (74), "Marshall" should be -- Marshall, --

In the Claims:

Add claim -- The transducer of claim 39 (1), wherein the tapered portion comprises each of the first portion and the second portion. --.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Anthony G. Sitko
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357



OCT 24 2007

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**MORRISON & FOERSTER LLP**
**3811 VALLEY CENTRE DRIVE, SUITE 500**
**SAN DIEGO, CA 92130-2332**

COPY MAILED

NOV 29 2006

OFFICE OF PETITIONS

In re Application of :
**LANGEVELD**, et al. :
Application No. 10/089,874 : DECISION ON PETITION
Filed: September 3, 2002 : TO WITHDRAW
Attorney Docket No. 246152016900 : 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 30, 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 Thomas E. Ciotti on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on October 19, 2006 included an incomplete or improper Statement under 37 CFR 3.73(b) and therefore not accepted.

There is an outstanding Office action mailed March 28, 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: **PIETER C. LANGEVELD**
**VENEZUELASTRAAT 55**
**DELFT, THE NETHERLANDS 2622 BP**

cc: **BRYAN H. DAVIDSON**
**NIXON & VANDERHYE PC**
**901 NORTH GLEBE RAOD, 11TH FLOOR**
**ARLINGTON, VA 22203-1808**

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WASHINGTON D.C. 2
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June E. Rickey
Calfee, Halter & Griswold LLP
800 Superior Avenue, Suite 1400
Cleveland, OH 44114

In re Application of
Sohn et al.
Application No.: 10/089,886
PCT No.: PCT/US00/14974
Int. Filing Date: 31 May 2000
Priority Date: 01 June 1999
Attorney Docket No.: 26473-4159US
For: Radiation Shield

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

This is a decision on applicant's petition under 37 CFR 1.137(b) filed on 28 March 2002.

## BACKGROUND

This international application was filed on 31 May 2000 and claimed an earlier priority date of 01 June 1999. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Consequently, the thirty period for payment of the basic national fee in the United States expired as of midnight on 01 December 2001. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

Applicants filed the instant petition on 28 March 2002.

## DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the petition is accompanied by the required reply in the form of the required basic national fee.

Regarding requirement (2), the petition fee has been paid.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

## DECISION

The petition under 37 CFR 1.137(b) to revive the application as abandoned under 35 U.S.C. 371(d) is **GRANTED** as to the national stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an executed oath or declaration.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

28 MAY 2002

#3

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WASHINGTON, D.C. 20231
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Paula Campbell Evans
Palmer & Dodge, LLP
111 Huntington Avenue
Boston, MA. 02199

| | | |
|---|---|---|
| In re Application of | : | |
| BOMAN | : | |
| Application No.: 10/088,807 | : | DECISION ON PETITION |
| PCT No.: PCT/US00/21606 | : | UNDER 37 CFR 1.137(b) |
| Int. Filing Date: 08 August 2000 | : | |
| Priority Date: 09 August 1999 | : | |
| Attorney Docket No.: 1657/1022 | : | |
| For: DNA SEQUENCES ISOLATED FROM | : | |
| HUMAN COLONIC EPITHELIAL CELLS | : | |

The petition to revive under 37 CFR 1.137(b) filed 29 March 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the applicant has submitted the basic national fee of $740.00 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National Stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration and payment of the applicable surcharge is required.

Derek A. Putonen
Attorney-Advisor
PCT Legal Office
Telephone: (703) 305-0130
Facsimile: (703) 308-6459

#2

PTO/SB/64/PCT (10-00)
Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

| PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) | Docket Number (Optional) |
|---|---|

First named inventor: Bruce M. Boman

International (PCT) Application No.: PCT/US00/21606 U.S. Application No.: (if known)

Filed: August 8, 2000

Title: DNA Sequences Isolated from Human Colonic Epithelial Cells

RECEIVED
11 APR 2002
Legal Staff
International Division

Attention: PCT Legal Staff
Box PCT
Assistant Commissioner for Patents
Washington, D.C. 20231

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.494(b) or (c) or 1.495(b) or (c) as applicable). The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.494(g) or 1.495(h).

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee
(2) Proper reply
(3) Terminal disclaimer with disclaimer fee--required for all international applications having an international filing date before June 8, 1995; 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 that small entity - fee $1,280 (37 CFR 1.17(m))

2. Proper reply

A. The proper reply (the missing 35 U.S.C. 371(c) requirement(s) in the form of _____ (identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

04/10/2002 LLANDGRA 00000032 160085 10089887
01 FC:141 1280.00 CH



Burden Hour Statement: This form is estimated to take 1.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

3. Terminal disclaimer with disclaimer fee

☒ Since this international application has an international filing date 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.

**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.**

March 29, 2002
Date

42,890
Joyce C. Hersh, For:
Signature

Paula Campbell Evans
Typed or printed name

Telephone Number: (617) 239-0000

Palmer & Dodge LLP
Address

111 Huntington Avenue
Boston, MA 02199

Enclosures: ☐ Response
☐ Fee Payment
☐ Terminal Disclaimer Form
☒ See below

*** The Commissioner for Patents is hereby authorized to charge all fees to Deposit Account No. 16-0085, Reference 1657/1022.

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Joseph S. Tripoli
Thomson Multimedia Licensing Inc
PO Box 5312
Princeton NJ 08543-5312

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NOV 07 2007

OFFICE OF PETITIONS

In re Application of :
DUFFIELD et al. :
Application No. 10/089,905 : DECISION ON PETITION
Filed: 04/03/2002 :
Attorney Docket No. RCA 89865 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed November 27, 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 February 28, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2134 for appropriate action by the Examiner in the normal course of business on the reply received

Christina P. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

# Request for Legal Status Consideration

Serial No. 10/089963 RECEIVED Date : 10/23/02

24 OCT 2002

Legal Staff
International Division

Request : ☐ Petition To Revive Unintentionally Abn. Appl. ☐ Petition under Rule 1.47

☑ Other : Transmittal Letter identifies the wrong International Application number.

Requestor : John Anderson Supervisor : C. Short

---

Response : petition granted

By : C Clark 12/10/02 Date : _____

6 DEC 2002

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WASHINGTON, D.C. 20231
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EYDIG VOIT & MAYER, LTD
WO PRUDENTIAL PLAZA, SUITE 4900
30 NORTH STETSON AVENUE
HICAGO, IL 60601-6780

In re Application of
DING et al.
U.S. Application No.: 10/089,963
PCT Application No.: PCT/GB00/03964
Int. Filing Date: 16 October 2000
Priority Date: 19 October 1999
Attorney Docket No.: 216190
For: METHODS AND APPARATUS FOR DRIVING A QUADRUPOLE ION TRAP DEVICE

DECISION

This is in response to applicant's "PETITION UNDER 37 CFR 1.182" filed 10 December 2002, to correct the international application number on the first page of the transmittal letter filed on 08 April 2002. A petition fee of $130.00 was charged to applicant's deposit account per their authorization. The petition is **GRANTED**.

On 16 October 2000, applicants filed international application No. PCT/GB00/03964, which claimed a priority date of 19 October 1999 and which designated the United States.

A Demand was filed with the International Preliminary Examining Authority electing the United States. As a result the deadline for payment of the basic national fee was extended to expire 30 months from the priority date, or on 19 April 2002.

On 08 April 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee. The first page of the transmittal letter incorrectly indicated international application no. PCT/GB00/03946; it should have read PCT/GB00/03964 as listed on the subsequent pages.

On 10 December 2002, applicants filed the instant petition requesting rectification of incorrect international application no. identifying the correct international application no. as PCT/GB00/03964.

The application is being forwarded to the US Designated/Elected Office for further processing as the national stage of PCT/GB00/03964, assigned U.S. serial number 10/089,963.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Telephone: (703)306-5467

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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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Date : August 28, 2007

Patent No. : 7193207 B1
Application No : 10/089963
Inventor(s) : Ding et al.
Issued : March 20, 2007
Title : **METHODS AND APPARATUS FOR DRIVING A QUADRUPOLE ION TRAP DEVICE**
Docket No. : 216190

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

**Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.**

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

| | |
|---|---|
| By mail: | Mail Stop PETITIONS<br>Commissioner for Patents<br>Post Office Box 1450<br>Alexandria, VA 22313-1450 |
| By hand: | Customer Service Window<br>Mail Stop Petitions<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |
| By fax: | 571-273-8300<br>ATTN: Office of Petitions |

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

CBN/eme

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**OFFICE OF PETITIONS**

In re Patent No. 7,193,207 :
Issue Date: March 20, 2007 :
Application No. 10/089,963 : ON PETITION
Filed: June 24, 2003 :
Attorney Docket No. 216190 :

This is a decision on the petition filed October 12, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The processing fee of $130 under 37 CFR 1.17(i) is charged to petitioner's deposit account No. 12-1216 as authorized by Pamela Ruschau.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

David Bucci
Petitions Examiner
Office of Petitions

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

26 JUL 2002

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I. ZBOROVSKY
6 SCHOOLHOUSE WAY
DIX HILLS, NY 11746

| | | |
|---|---|---|
| In re Application of | : | |
| ZEGE et al. | : | |
| Application No.: 10/089,979 | : | DECISION ON |
| PCT No.: PCT/RU00/00238 | : | |
| Int. Filing Date: 20 June 2000 | : | PETITION UNDER |
| Priority Date: 05 August 1999 | : | |
| Attorney Docket No.: NONE | : | 37 CFR 1.137(b) |
| For: METHOD FOR COMBINED PROCESSING OF DIESEL FUEL | : | |

This decision is in response to applicant's letter submitted 03 April 2002 requesting revival of the application. This letter has been treated as a petition under 37 CFR 1.137(b).

## BACKGROUND

On 20 June 2000, applicants filed international application PCT/RU00/00238, which claimed a priority date of 05 August 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 15 February 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 09 February 2001, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 05 February 2002.

On 03 April 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an assertion of small entity status, a declaration of the inventors, and the above-mentioned letter, which has been treated as a petition under 37 CFR 1.137(b).

## DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicants submitted the basic national fee for a small entity on 03 April 2002.

As to item (2), applicants submitted the petition fee for a small entity on 03 April 2002.

With regard to item (3), petitioner's statement that "the abandonment was unintentional" has been construed as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional." If this interpretation is incorrect, applicant must *immediately* notify the Office of PCT Legal Administration of such fact.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

The declarations filed 03 April 2002 do not comply with 37 CFR 1.497(a)-(b). Each executed declaration must identify each inventor. The declarations filed 03 April 2002 fail to identify each inventor. Rather, each declaration identifies only two of the six inventors. Consequently, a new oath(s) or declaration(s) properly identifying all of the inventors and signed by all of the inventors is required. Also, in one of the declarations filed 03 April 2002 the inventor is listed as Jury Zharchenkov whereas the international application was filed listing Jury Kharchenkov as the inventor. A satisfactory explanation of the difference between the last name of the inventor as indicated on the declaration and in the international application has not been provided. Nor has a grantable petition under 37 CFR 1.182 regarding a change of name of the inventor or a grantable petition under 37 CFR 1.497(d) (65 FR 54604, 08 September 2000, effective 07 November 2000) if a change of inventorship is being made from the inventorship of the application as indicated in the international application been provided. Thus, the inventorship indicated in the declaration does not appear to correspond to the inventorship of the international application.

The surcharge under 37 CFR 1.492(e) of $65 for a small entity for providing the oath or declaration later than thirty months from the priority date and the processing fee under 37 CFR 1.492(f) of $130 for providing the translation later than thirty months from the priority date have been charged to Deposit Account 26-0085, as authorized in the Transmittal Letter.

## CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file a proper response. A proper response would be a new oath(s) or declaration(s) properly identifying all of the inventors and signed by all of the inventors and an

acceptable explanation of any typographical or transliteration error in the last name of the inventor as indicated in the international application if this is the case, or a petition under 37 CFR 1.182 (see MPEP § 605.04(c)) if the inventor has changed his name, or a petition under 37 CFR 1.497(d) if a change of inventorship is being made from the inventorship of the application as indicated in the international application. Extensions of time under 37 CFR 1.136(a) are available.

Failure to timely file a proper response to this decision in a timely manner will result in abandonment of the application with regards to national stage prosecution in the United States.

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

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

12 JUL 2005

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#7

I. ZBOROVSKY
6 Schoolhouse Way
Dix Hills, New York 11746

| | | |
|---|---|---|
| In re Application of: | : | |
| ZEGE, et al. | : | |
| U.S. Application No.: 10/089,979 | : | DECISION ON PETITION |
| PCT No.: PCT/R00/00238 | : | |
| International Filing Date: 20 June 2000 | : | |
| Priority Date: 05 August 1999 | : | |
| Attorney's Docket No.: None | : | |
| For: METHOD FOR COMBINED PROCESSING OF DIESEL FUEL | : | |

This decision is issued in response to applicant's 29 April 2003 submission, treated herein as a petition under 37 CFR 1.181 to confirm the 30 September 2002 filing of a timely response to the decision mailed herein on 26 July 2002. No petition fee is required.

## BACKGROUND

On 26 July 2002, a "Decision On Petition Under 37 CFR 1.137(b)" was mailed herein. The decision granted applicant's petition for revival of the application. However, the decision noted that the declarations filed by applicants were not acceptable in that they did not identify all the inventors. In addition, the decision noted that the inventor listed on the declaration as Jury Zharchenkov was identified on the published international application as Jury Kharchenkov. The decision granted applicant two months in which to file a proper response, that is, a proper oath or declaration and an acceptable explanation with respect to the discrepancy in the inventor's name.

On 06 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an acceptable oath or declaration in compliance with 37 CFR 1.497.

On 29 April 2003, applicants filed the petition considered herein. The petition asserts that a response to the 26 July 2002 decision, including a revised declaration, was timely filed on 30 September 2002. The petition includes a copy of the 30 September 2002 submission and a copy of a return postcard that itemizes the response (including the declaration) and bears a USPTO receipt stamp dated 30 September 2002.

## DISCUSSION

Based on applicants' statements in the present petition and the attached return postcard, it is concluded that the "Response To Decision On Petition Under 37 CFR 1.137(b)" and the revised declaration attached to the present petition were originally filed on 30 September 2002.

Based on the certification under 37 CFR 1.8 contained on the "Response To Decision On Petition Under 37 CFR 1.137(b)," dated 25 September 2002, this submission is considered a timely response to the decision mailed by this Office on 26 July 2002.

The declaration included with the 30 September 2002 submission complies with the requirements of 37 CFR 1.497. In addition, the submission includes an acceptable explanation confirming that the name of inventor Jury Zharchenkov is properly listed on the declaration, and that the incorrect identification of this inventor as Jury Kharchenkov in the international application was the result of a transliteration error (see MPEP § 605.04(b): where an error in the spelling of an inventor's name results from a transliteration error, a petition under 37 CFR 1.182 is not required).

## CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**. The "Response To Decision On Petition Under 37 CFR 1.137(b)" and revised declaration attached to the present petition are considered to have been filed on 30 September 2002 as a timely response to the decision mailed herein on 26 July 2002.

The name of record for the second inventor is accepted as Jury N. Zharchenkov, as set forth in the declaration.

The Notification Of Missing Requirements mailed 06 September 2002, which required submission of declaration materials already required by the decision mailed 26 July 2002, is hereby **VACATED**.

This application is being returned to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 30 September 2002.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

April 5, 2007

Patent No. : 7,120,474, B1
Ser. No. : 10/089988
Inventor(s) : Sharp
Issued : Oct. 10, 2006
Title : **COMMUNICATION DEVICE**
Docket No. : 042933/301870

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent.

Comparison of the patent on the **Title page item (30)**, with the corresponding location in the application file reveals that there is no discrepancy.

**In view of the foregoing, your request is hereby dismissed.**

Elisha Evans
For Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

CBN/eme

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6-6-06

Paper No.: _____

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/089998 Patent No.: 6995909

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 chek Abstract

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

E Young

Certificates of Correction Branch

703-308-9390 ext. 117

**Thank You For Your Assistance**

---

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

Note your decision on the appropriate box.

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

**Comments:** Corrections to Abstract Approved

tcl

6/28/06

DREW A. DUNN
SUPERVISORY PATENT EXAMINER

SPE

2872

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. 10

CELERA GENOMICS CORP.
ATTN: WAYNE MONTGOMERY, VICE PRES, INTEL PROPERTY
45 WEST GUDE DRIVE
C2-4#20
ROCKVILLE, MD 20850

COPY MAILED

DEC 13 2002

OFFICE OF PETITIONS

In re Application of
Chunhua Yan and Fangcheng Gong
Application No. 10/090,002
Filed: March 5, 2002
Attorney Docket Number: CL001316

DECISION ACCEPTING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed November 12, 2002.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor can not be reached or located and diligent effort has been used to locate the inventor. Specifically, the petition indicates the application papers were sent to the last known address of Fangcheng Gong. The envelope was returned as being undeliverable. Petitioner conducted phone book and electronic searches. Joint inventor informed petitioner he was unaware of current address of non-signing inventor. Phone calls were also made to last known home number which did not yield any forwarding information.

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

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

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

For

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

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OCT 2 5 2002

OFFICE OF PETITIONS

CELERA GENOMICS CORP.
ATTN: WAYNE MONTGOMERY, VICE PRES, INTEL PROPERTY
45 WEST GUDE DRIVE
C2-4#20
ROCKVILLE, MD 20850

In re Application of
Yan et al.
Application No.10/090,002
Filed: March 5, 2002
Attorney Docket Number: CL001316

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR §1.47(a), filed October 1, 2002.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR §1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR §1.136(a).

The above-identified application was filed on March 5, 2002, without a signed oath or declaration and naming Chunhua Yan and Fangcheng Gong as co- inventors.

Accordingly, on April 1, 2002, a "Notice to File Missing Parts of Application" was mailed, requiring the basic filing fee, claim fees, an executed oath or declaration and a $130.00 surcharge for its late filing.

In response, on July 1, 2002, applicant submitted the basic filing fees, claim fees, a $130.00 surcharge for late filing oath or declaration fee, and a copy of a returned certified mail envelope to inventor Gong. Pursuant to applicants' request the $130.00 petition fee was charged to deposit account 50-0970. A petition under 37 CFR 1.47(a) was dismissed for not submitting a one month extension of time.

On renewed petition, petitioner contends a fee transmittal submitted on July 1, 2002 authorized the PTO to charge any additional fees required under 37 CFR 1.16 and 1.17. A review of the Office record does not show a copy of the July 1, 2002 fee transmittal form. Nonetheless petitioner will be charged the one (1) month $110.00 extension of time fee based upon the July 1, 2002 fee transmittal form.

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

petition fee; and, (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) as set forth above.

As to item (1), rule 47 applicant has failed to demonstrate "diligent effort" was used to locate inventor Gong. See MPEP 409.03(d). The statement of facts indicates applicant tried to contact inventor Gong via e-mail and certified mail. However, the e-mail correspondence went unanswered and the communication sent via certified mail to inventor Gong's last known address was returned "attempted not known". One certified letter to inventor Gong at his last known address does not constitute "diligent effort" Did rule 47 applicant contact known colleagues for a forwarding address of inventor Gong? Was an electronic search conducted to locate the last known address? Did rule 47 applicant look in the phone book for a listing of inventor Gong? Applicant may wish to conduct an Internet search and contact a Fangcheng Gong in West Lafayette, Indiana 47906, who may be the inventor involved with the above-identified application. If Fangcheng Gong in Indiana is the inventor for this application, rule 47 applicant is required to send a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d).

Should additional searches for inventor Gong not yield any results, applicant should present copies of documentary evidence that support a finding that the non-signing inventor could not be found or reached and the steps taken to locate the non-signing inventor. If applicant provides sufficient evidence that diligent effort has been made to locate the inventor and inventor can not be located, 47 applicant is not required to send a copy of the application.

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

| | |
|---|---|
| By mail: | Commissioner for Patents<br>Box DAC<br>Washington, D.C. 20231 |
| By FAX: | (703) 308-6916<br>Attn: Office of Petitions |
| By hand: | Crystal Plaza Four, Suite 3C23<br>2201 S. Clark Place<br>Arlington, VA 22202 |

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

Christina L. Donnell for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

CELERA GENOMICS CORP.
ATTN: WAYNE MONTGOMERY, VICE PRES, INTEL PROPERTY
45 WEST GUDE DRIVE
C2-4#20
ROCKVILLE, MD 20850

COPY MAILED

SEP 2 4 2002

OFFICE OF PETITIONS

In re Application of
Yan et al.
Application No. 10/090,002
Filed: March 5, 2002
Attorney Docket Number: CL001316

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR §1.47(a), filed July 1, 2002.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR §1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR §1.136(a).

The above-identified application was filed on March 5, 2002, without a signed oath or declaration and naming Chunhua Yan and Fangcheng Gong as co- inventors.

Accordingly, on April 1, 2002, a "Notice to File Missing Parts of Application" was mailed, requiring the basic filing fee, claim fees, an executed oath or declaration and a $130.00 surcharge for its late filing.

In response, on July 1, 2002, applicant submitted the basic filing fees, claim fees, a $130.00 surcharge for late filing oath or declaration fee, and a copy of a returned certified mail envelope to inventor Gong. Pursuant to applicants' request the $130.00 petition fee was charged to deposit account 50-0970.

Petitioner's rule 47 petition is untimely. Petitioner was required to respond to the Notice of Missing Parts by June 1, 2002. Petitioner did not provide authorization to charge a deposit account for any extensions of time. The petition is **DISMISSED** as untimely. Accordingly, the Petition has not been reviewed on its merits. The last day of the extendable period to respond to the Notice of Missing Parts is November 1, 2002, with the appropriate extension of time fee.

If an appropriate response is not filed by November 1, 2002, this application will be abandoned and a petition to revive and its accompanying fee will be required.

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

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

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

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202

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

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

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/12/07

Paper No.: 20070214

TO SPE OF : ART UNIT 1636

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/690036 Patent No.: 7101703

**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.**

**HENRY RANDALL**
Certificates of Correction Branch
703-308-9390 ext.

**Thank You For Your Assistance**

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

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

Comments: _____

SPE

1636
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

#14

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

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MAR 15 2004

OFFICE OF PETITIONS

In re Application of
Kyle A. Brownell, et al.
Application No. 10/090,040
Filed: March 1, 2002
Attorney Docket No. 410193.90155

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 24, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on January 26, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***

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 1724 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 : 11/21/04

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 6759425

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:**

There is no corresponding location number in the specifications, of the given errors. "The exact page and line number where the errors occurs in the application file should be identified on the request" MPEP 1485.

Thomas McKenzie — SPE

1625 — 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. 7

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK, NY 10020-1105

COPY MAILED

APR 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Ramamoorthy Rajagopalan :
Application No. 10/090,050 : DECISION GRANTING PETITION
Filed: February 27, 2002 : UNDER 37 CFR 1.137(f)
Attorney Docket No. AP-40 :

This is a decision on the petition, filed April 8, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on 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 in compliance with 37 CFR 1.137(f). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay in filing the required reply [Notice to Rescind Previous Nonpublication Request Under 35 U.S.C. § 122(b)(2)(B)(ii)] until the filing of a grantable petition was unintentional." Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A corrected Filing Receipt which sets forth the projected publication date of August 28, 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 2836 for examination in due course.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SMITH IP SERVICES, P.C.
660 NORTH CENTRAL EXPRESSWAY
SUITE 230
PLANTO, TX 75074

COPY MAILED

JUL 19 2006

OFFICE OF PETITIONS

In re Application of :
Michael Fripp et al :
Application No. 10/090,054 : ON PETITION
Filed: March 1, 2002 :
Attorney Docket No. 2001-IP-004288 US1 :
USA

This is a decision on the petition, filed May 5, 2006, 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 submit the Issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed November 10, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 11, 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)(1).

The Issue fee and publication fee have not been received. The petition to revive can not be granted until these fees are 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

SMITH IP SERVICES, P.C.
660 NORTH CENTRAL EXPRESSWAY
SUITE 230
PLANO, TX 75074

COPY MAILED

JAN 17 2007

OFFICE OF PETITIONS

In re Application of :
Michael Fripp et al :
Application No. 10/090,054 : ON PETITION
Filed: March 1, 2002 :
Attorney Docket No. 2001-IP-004288 US1 USA :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 26, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed November 10, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 11, 2006.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 5/3/2010
Patent No. : 7,344,593 B2
Serial No. : 10/090,060
Inventor(s) : Luo et al.
Issue Date : March 18, 2008
Title : **FIBER REINFORCED CEMENT COMPOSITE MATERIALS USING CHEMICALLY TREATED FIBERS WITH IMPROVED DISPERSIBILITY**
Doc./File No. :**129843-1051**

Re: Reconsideration for Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322.

Respecting the alleged error(s) in your request, inspection of the file of the application for the patent reveals that column 15, lines 59 & 61, in the patent, is/are printed in accordance with the record in the Patent and Trademark Office, as passed to issued by the examiner. There being no fault on the part of the Patent and Trademark Office, it has no authority to issue a certificate of correction under the provision of 1.322.Therefore, no correction is in order here.

In view of the foregoing, your request is herby denied.

However, further consideration will be given these matters, upon receipt of a request for **Reconsideration** certificate of correction (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892 w/references considered by examiner, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch.

**Ernest C. White, *LIE* (703) 756-1590**
Mary F. Diggs, *Supervisor* (703) 756-1580
Decisions & Certificates of Correction Branch
**ernest.white@uspto.gov**

GARDERE / JHTL
GARDERE WYNNE SEWELL, LLP
1601 ELM STREET
SUITE 3000
DALLAS TX 75201

ecw

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

COPY MAILED

JUL 2 9 2002

OFFICE OF PETITIONS

Henry T. Brendzel
P.O. Box 574
Springfield, NJ 07081

In re Application of :
Beautnagel, et al. :
Application No. 10/090,065 : DECISION REFUSING STATUS
Filed: March 2, 2002 : UNDER 37 CFR 1.47(a)
Docket No.: Beautnagel 2001-0206 :
For: EMPLOYING SPEECH MODELS IN :
CONCATENATIVE SPEECH SYNTHESIS :

This is in response to the petition under 37 CFR 1.47(a), filed May 24, 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 March 2, 2002 without an executed oath or declaration and naming Charles Beautnagel, David A. Kapilow, Joannis G. Stylianou, and Ann K. Syrdal as joint inventors. Accordingly, on April 1, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge.

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

The petition lacks requirements (1), (2) and (4) stated above.

As to item (1), the petition lacks sufficient evidence that the non-signing inventor cannot be reached, was ever presented with a copy of the application papers (specification, claims and drawings), or, having been presented with the application papers, refused to sign the oath or declaration.

The declaration of Henry Brendzel indicates that attempt was made to reach the inventor, but that the inventor did not respond to email and the inventor's telephone number was unavailable. Declarant further states that a declaration and assignment were emailed to the inventor, but that no response was received.

emailed to the inventor, but that no response was received.

Where inability to locate a non-signing inventor is alleged, diligent effort to locate the non-signing inventor must be undertaken. Petitioner is required to undertake additional effort to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, claims, drawings, and oath or declaration). Details and supporting evidence regarding attempts to locate the non-signing inventor should be submitted in the form of a declaration or affidavit by one having first hand knowledge of the information contained therein. Petitioner may wish to consult telephone directories, the internet, national registries, etc., in effort to locate the non-signing inventor.

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 has not been presented. The declaration presented with the instant petition is not acceptable as it fails to set forth the particulars of the non-signing inventor, i.e., address, citizenship, residence. Petitioner is advised that any renewed petition should include an executed oath or declaration in full compliance with 37 CFR 1.63 and 37 CFR 1.64.

As to item (4), petitioner is required to provide a last known address for the non-signing inventor.

The required petition fee of $130.00 has been charged to deposit account No. 50-0732 as authorized in the instant petition.

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 8

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AUG 2 0 2002

OFFICE OF PETITIONS

Henry T. Brendzel
P.O. Box 574
Springfield, NJ 07081

In re Application of
Beautnagel, et al.
Application No. 10/090,065
Filed: March 2, 2002
Docket No.: Beautnagel 2001-0206
For: EMPLOYING SPEECH MODELS IN CONCATENATIVE SPEECH SYNTHESIS

: DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(b) MOOT

This is in response to the renewed petition under 37 CFR 1.47(a), filed August 9, 2002.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(b) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(b).

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700.

JUN 17 2004

Mailed:_____

rvk
Paper Number: 11

In re application of :
Farhad Farassat : DECISION ON
Serial No. 10/090,083 : PETITION
Filed: March 01, 2002 :
For: METHOD OF TESTING BONDED CONNECTIONS, AND A WIRE BONDER :

This is a response to the "PETITION FOR REVIVAL, filed January 20, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of November 24, 2003, for failure to timely file a proper response to the Office letter on March 25, 2003 be withdrawn. The petitioner asserts that applicant did file a proper response to the Office letter of March 25, 2003 on July 25, 2003.

**DECISION**

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicant did reply to the Office letter of March 25, 2003 in a timely manner. The submitted evidence are: (1) a copy of the response and transmitted documents including a one-month request for an Extension of Time to file a Response with an executed Certificate of Mailing on July 25, 2003; (2) a Statement by James Ausley, who signed the certificate of mail, indicating that the response was timely filed ; and (3)a copy of the daily mail log of Knobbe, Martens, Olson & Bear, LLP indicating that a response corresponding to the attorney docket number of the above case was filed on July 25, 2003.

Therefore, the abandonment is hereby withdrawn, and the application is returned to

pending status. The case will be forwarded to the Technical Support Staff for entering of the Response dated July 25, 2003 and then forwarded to the examiner for prompt consideration.

In addition, because the check in the amount of $110 for an Extension Time of one month filed on July 25, 2003 was not received by the PTO, the PTO is authorized to charge $110 for one month extension time to Deposit Account No. 11-1410.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEEN FLOOR
IRVINE, CA 92614

#10

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

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AUG 28 2002
LICENSING & REVIEW

Merck and Co. Inc.
P. O. Box 2000
Rahway, NJ 07065-0907

In re Application of:
Fang Chen:
For Serial No. 10/090,090

DECISION ON
REQUEST FOR
RECONSIDERATION

Filed: March 4, 2002
For: **DNA MOLECULES ENCODING HUMAN NUCLEAR RECEPTOR PROTEIN nNR7-1 (as amended)**

This is a decision on the REQUEST FOR RECONSIDERATION filed July 15, 2002, responding to the communication (FORM PTOL-456) mailed June 12, 2002.

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

42 U.S.C. 2182 states in part **"... useful in the production or utilization of special nuclear material or atomic energy".** A review of the application file history reveals among other things the use of a radioactive isotope "$^{35}$P " as disclosed in at least page 37 of the instant specification. Therefore under the directions from the Department of Energy (DOE) this application has been made available to them under 42 U.S.C. 2182 since the following subject matter relates to at least one of the following:

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

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

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

c. Investigations of the environment or the earth

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

Applicant is reminded that a response is due within forty-five days of the mailing date of the communication (FORM PTOL-456). The communication having been mailed June 12, 2002.

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

#17

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

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AUG 21 2003
LICENSING & REVIEW

Merck and Co. Inc.
P. O. Box 2000
Rahway, NJ 07065-0907

In re Application of: Fang Chen

For Serial No. 10/090,090
Filed: March 4,2002

DECISION ON
2nd REQUEST FOR
RECONSIDERATION

For: **DNA MOLECULES ENCODING HUMAN NUCLEAR RECEPTOR PROTEIN nNR7-1 (as amended)**

This is a decision on the 2nd REQUEST FOR RECONSIDERATION filed October 17, 2002, responding to the Forty-Five mailed June 12, 2002.

The request is **Granted.**

No further action is required regarding this issue.

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

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

Paper No. None

William Ryan
Law Offices of William Ryan, Suite 360
1253 Springfield Avenue
New Providence NJ 07974

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APR 2 1 2005

OFFICE OF PETITIONS

In re Application of
Katherine Hua Guo et al.
Application No. 10/090,110
Filed: March 4, 2002
Attorney Docket No.: Guo 6-8-3-26-3
Title: HIGH QUALITY STREAMING MULTIMEDIA

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

This is a decision on the petition under 37 CFR §1.137(b)[1], filed October 27, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed July 17, 2002, which set a shortened statutory period to reply for one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were received. Accordingly, the above-identified application became abandoned on August 18, 2002. A Notice of abandonment was mailed on March 20, 2003.

With the petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

The application file is being forwarded to Technology Center 2100 for further processing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

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

1 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 § 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.

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COMMISSIONER FOR PATENTS
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Paper No. None

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JAN 30 2007

OFFICE OF PETITIONS

William Ryan
Law Offices of William Ryan, Suite 360
1253 Springfield Avenue
New Providence NJ 07974

| | | |
|---|---|---|
| In re Application of | : | |
| Katherine Hua Guo et al. | : | |
| Application No. 10/090,110 | : | DECISION ON PETITION UNDER |
| Filed: March 4, 2002 | : | 37 C.F.R. §1.137(b) |
| Attorney Docket No.: Guo 6-8-3-26-3 | : | |
| Title: HIGH QUALITY STREAMING MULTIMEDIA | : | |

This is a decision on the petition under 37 C.F.R. §1.137(b)[1], filed August 18, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 26, 2005, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 27, 2005. A notice of abandonment was mailed on March 15, 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.

With the present petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. Petitioner has met all requirements for a grantable petition pursuant to 37 C.F.R. §1.137(b). As such, the petition 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 amendment which was received with the present petition can be processed.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

Paul Shanoski

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

cc: William Ryan
1577-D New Garden Road, Suite 300
Greensboro, NC 27410

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Paper No. 5

SAMUEL H DWORETSKY
AT&T CORP
PO BOX 4110
MIDDLETOWN NJ 07748-4110

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JUN 17 2003

OFFICE OF PETITIONS

In re Application of
Levy, et al.
Application No. 10/090,138
Filed: March 2, 2002
Attorney Docket No. Kujoory
2000-0487

ON PETITION

This is a decision on the petition under 37 CFR 1.137(f), filed May 19, 2003, which is being treated as a petition to revive under 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a PCT international application filed on February 17, 2003. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

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

A petition under 37 CFR 1.137(f) must be accompanied by:

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

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

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

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

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth a projected publication date of September 25, 2003 accompanies this decision.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Notice Regarding Rescission of Nonpublication Request
(1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 20 2005

**OFFICE OF PETITIONS**

VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20045-9998

In re Application of :
Kohei, et al. : LETTER REGARDING PTA
Application No.. 10/090,155 :
Filed: March 5, 2002 :
Atty. Dkt. No.: 32290-178954 :

This letter is in response to the "NOTICE RE: PATENT TERM ADJUSTMENT," filed March 11, 2005. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 13 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 13 days.

Patentees indicate that a possible error appears in the calculation of PTA and suggests a PTA of 106 days is in error.

A review of the application history reveals that the Determination of Patent Term Adjustment of 106 days is in error. An adjustment of 171 days under 37 CFR 1.702(a)(1) and 1.703(a)(1) can be attributed to the Office[1]. The adjustment 171 days can be reduced a total of 158 days for applicants' failure to engage in reasonable efforts to conclude prosecution[2].

---

[1] In accordance with 37 CFR 1.703(a)(1), the delay began May 6, 2003, the day after the date that is 14 months after the date on which the application was filed, and ended October 23, 2003, the date the non-final Office action was mailed.

[2] The calculations of the reductions are as follows: **4 days** under 37 CFR 1.704(b) commencing January 24, 2004, the day after the date that is three months after the non-final Office action was mailed on October 23, 2003, and ended January 27, 2004, the date of receipt of applicants' response to the Notice; **61 days** under 37 CFR 1.704(b) commencing May 14, 2004, the day after the date that is three months after the date the final Office action was mailed on February 13, 2004, and ended July 13, 2003, the date a response was

As patentees are advising us of an error in providing too much patent term adjustment in this application, no fee is due in connection to this matter.

This application is being forwarded to the Publications Division for issuance of 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

Enclosure: Enclosure: Copy of Adjustment PAIR Calculation

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submitted; and **93 days** under 37 CFR 1.704(c)(1) commencing July 13, 2004, the date a request for suspension of action under § 1.103 was filed and ending on October 13, 2004, the date of the termination of the suspension.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11th FLOOR
ARLINGTON, VA 22203

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OFFICE OF PETITIONS

In re Application of :
Gunaratnam, et al. :
Application No. 10/090,173 : ON PETITION
Filed: March 6, 2002 :
Attorney Docket No. P 284983 :

This is a decision on the papers styled, "Request To Withdraw Notice of Abandonment," which has been treated as a petition under 37 CFR 1.181, filed March 24, 2006, to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed October 22, 2003. Accordingly, this application became abandoned on January 23, 2004. A Notice of Abandonment was mailed on March 20, 2006.

Petitioner asserts that a response, in the form of an amendment and a two (2) month extension of time, were timely submitted on March 22, 2004. In support, the petition is accompanied by a copy of applicants' postcard receipt that acknowledges receipt of an amendment and a check for $506.00 on March 22, 2004. However, it is noted that the amendment is not found in the application file, and that USPTO financial records indicate the two (2) month extension of time as received on March 22, 2004. As such, it is assumed that the amendment submitted March 22, 2004 was misplaced by the Office.

Accordingly, the petition is granted and the holding of abandonment is withdrawn.

This application is being forwarded to Technology Center 3700, for review of the amendment, filed March 24, 2006 (originally filed March 22, 2004), *in due course*.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Michael K. Gunaratnam | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7600513 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/13/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 10/090,173 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 03/06/2002 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1543** 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: __

CONLEY ROSE, P.C.
P. O. BOX 3267
HOUSTON TX 77253-3267

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OFFICE OF PETITIONS

In re Application of :
Tour, et al. :
Application No. 10/090,211 :
Filed: 4 March, 2002 :
Attorney Docket No. 1789-10000 :

ON PETITION

This is a decision on a petition filed on 9 May, 2006, under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

## BACKGROUND

The record indicates:

- Petitioner failed to reply timely to the non-final Office action mailed on 18 March, 2005, with reply due absent extension of time on or before Monday, 20 June, 2005;
- the instant application went abandoned by operation of law after midnight 18 June, 2005;
- the Office mailed the Notice of Abandonment on 6 October, 2005;
- Petitioner filed the instant petition on 9 May, 2006, with, *inter alia*, a reply in the form of an amendment, and made the statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

## STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

### Allegations as to Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply,

---

[1] 35 U.S.C. §133 provides:
**35 U.S.C. §133 Time for prosecuting application.**
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

The record (including the petition filed on 9 May, 2006) does not necessitate a finding that the delay between midnight 18 June, 2005 (date of abandonment), and 9 May, 2006 (date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Applicants (Tour, Yang, Harder, Allara and Weiss) and their Counsel/Petitioner (Ross Spencer Garsson (Reg. No. 38,150) when accepting Petitioner's representation that the delay in filing the response was unintentional.[7]

It appears that Petitioner has satisfied the requirements of the regulation.

## CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to the Examiner in Technology Center 1700 for further processing in due course.

[7] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 06

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY CA 94704-0778

JAN - 9 2003

In re Application of:
Heim, *et al.*
Application No. 10/090,231
Filed: February 28, 2002
Attny. Docket No.: SRI1P031/US-4149-5

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the communication, filed November 05, 2002. The communication is being treated as a request to withdraw as attorney of record under 37 C.F.R. § 1.36.

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

The request meets all the above requirements. The request was signed by William Plut, an attorney with limited recognition under 37 C.F.R. § 10.9(b) in the above identified application.

The request is APPROVED

The attorneys of Beyer Weaver & Thomas, LLP, are identified in the Declaration and Power of Attorney, filed July 31, 2002, as having power of attorney and remain as attorneys of record.

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

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

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

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United States Patent and Trademark Office
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Paper No.

BEYER WEAVER & THOMAS, LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

COPY MAILED

DEC 26 2006

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Heim et al. | : | DECISION ON APPLICATION |
| Application No. 10/090,231 | : | FOR |
| Filed: February 28, 2002 | : | PATENT TERM ADJUSTMENT |
| Attorney Docket No. | : | |
| SRI1P031/US-4149-5 | : | |

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed August 6, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from seventeen (17) days to one hundred seventeen (117) days. This paper was recently forwarded to the undersigned for consideration.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is two hundred seven **(207)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 20, 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 17 days. On August 6, 2004, applicant timely submitted the instant application for patent term adjustment[1]. Applicants dispute the reduction of 100 days associated with the filing of a response to restriction requirement on April 16, 2004. Applicants point out that their response was received on

[1] PALM records indicate that the Issue Payment was also filed on August 6, 2004.

October 20, 2003. Thus, applicants argue no reduction is warranted.

The record supports a conclusion that the patent issuing from this application is not subject to a terminal disclaimer.

A review of the record confirms that the response received April 16, 2004 included a copy of a date-stamped and itemized postcard establishing that the response was originally received on October 20, 2003. As this was within three months of the mailing of the restriction requirement on October 7, 2003, there was no applicant delay within the meaning of §1.704(b). Removal of the period of reduction of 100 days is warranted.

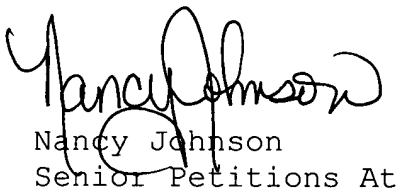
Furthermore, given that the response was received on October 20, 2003 and the Office did not take action until the mailing of a Notice of Allowance on May 20, 2004, entry of an additional period of adjustment pursuant to §1.702(a)(2) and §1.703(a)(2) is warranted. A period of adjustment of 90 days is being entered for Office delay for the period beginning on February 21, 2004, the day after the date that is four months after the date a reply was filed, and ending on May 20, 2004, the date of mailing of a notice of allowance.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 207 days (252 days of Office delay reduced by 45 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The Office of Patent Publication has been advised of this decision. The application is, thereby, 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 undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Wednesday

Date: 12/20/2006

PALM INTRANET

Time: 09:32:41

| PTA Calculations for Application: 10/090231 | | | |
|---|---|---|---|
| Application Filing Date: | 02/28/2002 | PTO Delay (PTO): | 162 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 145 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 207 |
| PTO Delay Adjustment: | 190 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 45 | 12/20/2006 | ADJUSTMENT OF PTA CALCULATION BY PTO | 90 | | |
| 44 | 12/20/2006 | ADJUSTMENT OF PTA CALCULATION BY PTO | 100 | | |
| 22 | 05/20/2004 | MAIL NOTICE OF ALLOWANCE | | | |
| 21 | 05/17/2004 | ISSUE REVISION COMPLETED | | | |
| 20 | 05/17/2004 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 19 | 05/17/2004 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 18 | 05/17/2004 | NOTICE OF ALLOWABILITY | | | |
| 17 | 04/26/2004 | DATE FORWARDED TO EXAMINER | | | |
| 16 | 04/16/2004 | RESPONSE TO ELECTION / RESTRICTION FILED | | 100 | 15 |
| 15 | 10/07/2003 | MAIL RESTRICTION REQUIREMENT | 162 | | -1 |
| 14 | 10/01/2003 | REQUIREMENT FOR RESTRICTION / ELECTION | | | |
| 13 | 08/06/2003 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 12 | 01/09/2003 | RECORD PETITION DECISION OF GRANTED RELATED TO ATTORNEY | | | |
| 11 | 11/05/2002 | PETITION ENTERED | | | |
| 10 | 09/16/2002 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 9 | 04/26/2002 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 8 | 08/19/2002 | APPLICATION DISPATCHED FROM OIPE | | | |
| 7 | 08/16/2002 | APPLICATION IS NOW COMPLETE | | 45 | 3 |
| 5 | 07/31/2002 | PAYMENT OF ADDITIONAL FILING FEE/PREEXAM | | | |
| 4 | 07/31/2002 | A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC | | | |

| | | | | | |
|---|---|---|---|---|---|
| 3 | 04/02/2002 | NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED | | | |
| 2 | 03/19/2002 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 02/28/2002 | 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

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Paper No. 5

Kevin J. Zilka
Silicon Valley IP Group
P.O. Box 721120
San Jose, California 95172-1120

MAILED

JUN 0 3 2003

Technology Center 2100

In re Application of: )
SHETH et al. )
Application No. 10/090,261 )
Filed: March 1, 2002 )
For: SYSTEM, METHOD AND COMPUTER PROGRAM PRODUCT FOR TRANSLATING (ASN.1) PROTOCOL DECODES )

**DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)**

This is a decision on the request for reconsideration of petition, filed May 06, 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.

The petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §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.

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 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.

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

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MAIL

AUG 16 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington DC 20037-3213

In re Application of:
Hironobu ISHIKAWA, et al.
Application Serial No.: 10/090,267
Filed: March 2, 2002
For: **CERAMIC DYNAMIC-PRESSURE BEARING AND HARD DISK DRIVE USING THE SAME**

DECISION
ON PETITION

This is a decision on the petition filed April 10, 2006 to withdraw finality of Office action which is treated as a petition pursuant to 37 CFR § 1.181.

Petitioner contends that the Final Office action mailed March 16, 2006 should not have been made final because applicant filed a Request for Suspension of Action for three months under 37 CFR 1.103(c) at the time filing an RCE.

A review of the file finds that a Request for Suspension was in fact filed and inadvertently overlooked by the examiner. Accordingly, the Final Office action mailed March 16, 2006 was premature and is hereby vacated.

The petition is **GRANTED**.

Since the three month period for suspension has expired, the application is being forwarded to the examiner for new and appropriate action in due course.

Mark R. Powell

Mark Powell, Director
Technology Center 2600
Communications

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**BAKER BOTTS L.L.P.**
**30 ROCKEFELLER PLAZA**
**44TH FLOOR**
**NEW YORK NY 10112-4498**

**COPY MAILED**

JAN 07 2008

**OFFICE OF PETITIONS**

In re Application of :

**FLEISCHER,** Maximillian et al. :
Application No. 10/090,277 : DECISION ON PETITION
Filed: March 04, 2002 : TO WITHDRAW
Attorney Docket No. **069286.0107** : 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 15, 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 Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **PATRICK SO'SHEA**
**O'SHEA, GETZ & KOSAKOWSKI, P.C**
**1500 MAIN STREET, SUITE 912**
**SPRINGFIELD, MA 01115**

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PROSKAUER ROSE LLP
One International Place
Boston, MA 02110

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Frederic Greenbaum | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7606747 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/20/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 10/090,285 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 03/04/2002 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1650** 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.

O I P E JC10 APR 8 2002 PATENT & TRADEMARK OFFICE

Docket No.: MAS-FIN-153

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

By:_____ Date: April 2, 2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|---|---|---|
| Applicant | : | Johann Winderl |
| Appl. No. | : | 10/090,289 |
| Filed | : | March 4, 2002 |
| Title | : | Electronic Component with Stacked Semiconductor Chips |
| Art Unit | : | |

# LETTER

Hon. Commissioner of Patents and Trademarks,
Washington, D.C. 20231

Sir:

The above-mentioned new patent application was filed on March 4, 2002 without a signed oath or declaration, under the provision of 37 C.F.R. 1.53(f).

In accordance with the above-mentioned rule, enclosed herewith is the original signed declaration as required by the Notice To File Missing Parts Of Application dated March 25, 2002.

The undersigned hereby states that the application filed in the Patent and Trademark Office is the application which the inventor(s) executed by signing the declaration. MPEP 601.01(a).

The fee required for the late filing of an oath or declaration in the amount of $130.00 is also enclosed.

Respectfully submitted,

_____
GREGORY L. MAYBACK
REG NO. 40,719

/mjb
Date: April 2, 2002
Lerner and Greenberg, P.A.
Post Office Box 2480
Hollywood, FL 33022-2480
Tel: (954) 925-1100
Fax: (954) 925-1101

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|---|---|---|---|
| 10/090,289 | 03/04/2002 | Johann Winderl | MAS-FIN-153 |

#3

OIPE JC10 APR 8 2002 PATENT & TRADEMARK OFFICE

**CONFIRMATION NO. 6619**

**FORMALITIES LETTER**

*OC000000007709279*

LERNER AND GREENBERG, P.A.
Post Office Box 2480
Hollywood, FL 33022-2480

Date Mailed: 03/25/2002

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

### FILED UNDER 37 CFR 1.53(b)

***Filing Date Granted***

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 130.**

---

***A copy of this notice MUST be returned with the reply.***

M-HAIKE
Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

04/09/2002 SDENBOB1 00000001 10090289
01 FC:105 130.00 OP

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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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FEB 08 2005

OFFICE OF PETITIONS

In re Application :
Robert R. Rice :
Application No. 10/090,296 : DECISION ON APPLICATION
Filed: March 4, 2003 : FOR PATENT TERM ADJUSTMENT
Atty Docket No. 038190/241566 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705(b))," filed November 19, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred fifty-one (351) days to three hundred fifty-five (355) 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 **three hundred fifty-five (355) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 2, 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 fifty-one (351) days. On November 19, 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 three hundred fifty-five (355) days.

Applicant asserts entitlement to a patent term adjustment of three hundred fifty-five (355) days on the basis that the PTO improperly assessed Applicant a delay of four days for filing a response on July 27, 2004, when a non-final Office action was mailed on April 23, 2004. Applicant asserts that he timely filed a response within the three month period pursuant to 37 C.F.R. 1.704(b), on July 22, 2004.

Applicant states 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 fifty-one (351) days based on an adjustment for PTO delay of three hundred fifty-five (355) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicant's delay of four (4) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustment of four (4) days is at issue.

The adjustment of 4 days has been found to be incorrect. A review of the application file reveals that the response to the April 23, 2004 Office action was timely filed on July 22, 2004.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **three hundred fifty-five (355) days** (355 days of PTO delay and 0 days of applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 16-0605, as authorized.

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

---

[1] Applicant filed the application for patent term adjustment prior to the filing of the issue fee.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

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

Enclosure: Copy of Revised PAIR Screen

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**Siemens Corporation**
**Intellectual Property Department**
**186 Wood Avenue South**
**Iselin NJ 08830**

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APR 13 2007

**OFFICE OF PETITIONS**

In re Application of :
HONG SHEN et al. :
Application No. 10/090,314 : DECISION ON PETITION
Filed: March 04, 2002 :
Attorney Docket No. 2002P03506US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 07, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 02, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 03, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Accordingly, the reply to the non-final Office Action of June 02, 2005 is accepted as having been unintentionally delayed.

The required petition fee under 37 CFR 1.137 (b) of $1,500 is being charged to the petitioner's deposit account No. 19-2179

Telephone inquiries concerning this decision should be directed to Jean Duverne at (571) 272-6051 or in his absence to the undersigned.

This application is being referred to Technology Center AU 2173 for appropriate action by the Examiner in the normal course of business on the reply received

David Bucci
Petitions Examiner
Office of Petitions

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

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NOV 15 2005

**OFFICE OF PETITIONS**

ON PETITION

In re Application of :
Chongjun Jiang :
Application No. 10/090,340 :
Filed: March 4, 2002 :
Attorney Docket No. HARD1,028A :

This is a decision on the petition filed August 12, 2005 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 August 5, 2005 for failure to timely pay the issue fee on or before August 4, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The issue fee, petition fee and publication 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
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)).

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**DAVIS & BUJOLD PLLC**
**FOURTH FLOOR**
**500 N. COMMERCIAL STREET**
**MANCHESTER, NH 03101-1151**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Norman Matheson Lindsay | : | |
| Application No. 10/090,363 | : | DECISION ON PETITION |
| Filed: March 4, 2002 | : | UNDER 37 CFR 1.313(c)(2) |
| Patent No. 6,887,162 | : | |
| Issue Date: May 3, 2005 | : | |
| Attorney Docket No. COLGRA P29AUSD1 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 28, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

Unfortunately, the instant petition was not received within sufficient time to avert the issuance of the above-identified application into a patent. This Office was not notified until May 4, 2005 of the filing of the instant petition. The Office sincerely apologizes for any inconvenience caused petitioner in this matter.

Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**.

Since this application has issued, the concurrently filed request for continued examination (RCE) is improper and will not be processed. In view thereof, the $395 filing fee submitted therefor, as well as the petition fee of $130, will be refunded in due course.

The Information Disclosure Statement has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

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

This matter is being referred to Files Repository.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MERCHANT & GOULD BELLSOUTH CORPORATION
P.O. BOX 2903
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Page et al. | : | |
| Application No. 10/090,379 | : | ON PETITION |
| Filed: 4 March, 2002 | : | |
| Attorney Docket No. | : | |
| 60027.0309US01/BS01384 | : | |

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

This application became abandoned on 17 March, 2006, for failure to timely submit a reply to the non-final Office action mailed on 16 December, 2004, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on 25 August, 2006.

In the present petition, petitioners request that the Office withdraw the holding of abandonment due to non-receipt of the Office action mailed on 16 December, 2004.

A review of the record indicates no irregularity in the mailing of the Office action mailed on 16 December, 2004, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office

communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1] For example, if a three-month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

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

Petitioners have supplied a copy of a docket report along with a statement by the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. The docket report is referenced in the practitioner's statement.

It is also noted that although a revocation and new power of attorney and change of correspondence address listing the current correspondence address was filed on 9 May, 2003, the non-final Office action mailed on 16 December, 2004, was mailed to Notice of Allowance and Fee(s) Due was mailed to Christopher L. Bernard, Esq., Kilpatrick Stockton LLP, One Wachovia Center, Suite 3500, 301 S. College Street, Charlotte, NC 28202. The revocation and power of attorney and change of correspondence address were entered on 10 March, 2005. As such, the showing of record is that although a change of correspondence address was filed, the Office action was subsequently mailed to the old correspondence address.

The petitioner has made a sufficient showing of nonreceipt of the Office action mailed on 16 December, 2004. As such, there is no abandonment in fact. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

As such, the holding of abandonment is **withdrawn**. The application is restored to pending status.

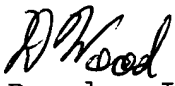
The petition is **GRANTED.**

---

[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

The application file is being referred to the Technology Center Technical Support Staff for remailing of the non-final Office action mailed on 16 December, 2004. The period for reply will be reset from the mailing date thereof.

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



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
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Chicago, Illinois 60610

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OFFICE OF PETITIONS

In re Application of :
James Nolan et al : DECISION DISMISSING
Application No. 10/090,389 : PETITION
Filed: March 1, 2002 :
Attorney Docket No. 10541-336 :

This is a decision on the petition filed April 22, 2002, requesting that the above-identified application be accorded a filing date of February 28, 2002, rather than the presently accorded filing date of March 1, 2002.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on February 28, 2002, before the last scheduled pick up for the day, pursuant to the requirements of 37 CFR 1.10. Petitioners acknowledge that the date of deposit in Express Mail shown on petitioners' Express Mail receipt is March 1, 2002, but argue that the application was actually deposited with the United States Postal Service (USPS) as Express Mail on February 28, 2002.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a).

(Emphasis supplied). Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

The declaration of Renee M. Franks is not evidence that came into being after and within one business day of the deposit date. In addition, the statement by USPS Bayside Station supervisor, James Forney, is not evidence from the USPS corroborating the allegation that the application was deposited in Express Mail service on February 28, 2002, rather than March 1, 2002. In fact, the statement by James Forney indicates that "the U.S. Post Office does not have the records for the collection box pickup for 2/28/02..." With regard to the application transmittal letter, the "Certificate of Mailing by 'Express Mail'", and the copy of the Express Mail label showing a February 28, 2002 postage meter date, these were all made prior to depositing the application in Express Mail service, and as such, only provide evidence that the application was intended to be deposited in Express Mail service on February 28, 2002. Since the petition filed April 22, 2002, is not accompanied by the corroborating evidence required by the rule, the petition is dismissed.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision to be considered timely. See 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

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

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

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

By hand: Crystal Plaza 4
Room 3-C23
2201 South Clark Place
Arlington, VA

Receipt is acknowledged of the signed declaration and surcharge filed with the petition on April 22, 2002.

The application is being forwarded to Technology Center Art Unit 2673 for examination in due course with a filing date of March 1, 2002.

Any inquiries related to this decision should be directed to Legal Advisor James Engel at (703) 308-5106.

Eugenia Jones

Eugenia Jones
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

JJE

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Paper No. 10

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD, 7TH FLOOR
LOS ANGELES CA 90025

MAIL

FEB 2 6 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Nolan et al.
Application No. 10/090,389
Filed: March 1, 2002
For: NAVIGATION SYSTEM UTILIZING PORTABLE AND ADJUSTABLE HEADS UP DISPLAY

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is in response to the Request To Reverse Holding Of Abandonment which is treated as a Petition for Withdrawal of Abandonment pursuant to 37 C.F.R. § 1.181(a), filed November 10, 2003. No fee is required.

The subject application was filed without an executed oath or declaration, and afforded a filing date of March 1, 2002. On April 1, 2002, the U.S. Patent and Trademark Office mailed a Notice To File Missing Parts (paper No. 3) requesting a signed oath or declaration and payment of a late filing fee of $130.00. A response to the Notice to file missing parts was not received and/or matched with the application. Therefore, a Notice of Abandonment was mailed on November 3, 2003.

Petitioner states that a thorough response to the Notice of Missing Parts was in fact timely filed, and received in the Office, on April 22, 2002. 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 executed Declaration and a Response transmittal letter (among other items) which authorized payment of the required fee. Petitioner has also submitted a copies of the aforementioned Declaration and transmittal letter.

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 since the post card receipt bears a date of April 22, 2002, evidencing submission within the two months set within the Notice to File Missing Parts. Accordingly, the copy of the Declaration is accepted. Office records indicate that the fee for late submission of a signed oath or declaration, was received and recorded, as indicated on the transmittal letter.

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 will be forwarded to TC2600's Central Files to await action in appropriate turn.

Joseph J. Rolla Jr., Director
Technology Center 2600
Communications
(703) 305-9700

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LOS ANGELES, CA 90025

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re application of:
James Nolan, et al.
Application No. 10/090,389
Filed: March 1, 2002
For: NAVIGATION SYSTEM UTILIZING PORTABLE AND ADJUSTABLE HEADS UP DISPLAY

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record and change of address filed on August 31, 2005.

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

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

All of the attorneys/agents of record have been withdrawn.

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

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

cc: Laura White
Horizon Navigation, Inc.
4701 Patrick Henry Drive, Suite 1301
Santa Clara, CA 95054

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**COOLEY GODWARD KRONISH LLP**
**ATTN: PATENT GROUP**
**SUITE 500**
**1200 - 19TH STREET, NW**
**WASHINGTON DC 20036-2402**

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**OFFICE OF PETITIONS**

In re Application of :

**ROTH,** Cliff et al. :
Application No. 10/090,405 : DECISION ON PETITION
Filed: March 04, 2002 : TO WITHDRAW
Attorney Docket No. **GIST-006/00US** : 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 01, 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 Sean O'Dowd on behalf of all attorneys of record who are associated with customer Numbers 22,903, 23,419 and 58,249. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **CLIFF ROTH**
**333 PEARL STREET APT. 14K**
**NEW YORK, NY 10038**

cc: **JAMES J. CANTALINI**
**333 EAST 55TH STREET**
**NEW YORK, NEW YORK 10022**

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BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

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OFFICE OF PETITIONS

In re Application of :
Jormanainen, et al. : DECISION ON PETITION
Application No. 10/090,424 :
Filed: March 1, 2002 :
Dkt. No.: 915-004.008 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 19, 2008.

The Notice of Abandonment, mailed November 16, 2007, states the application is abandoned for failure to timely submit a proper reply to the Office communication mailed May 17, 2007.

Petitioners assert that a response was timely filed May 25, 2007 and have included as proof of submission and proof of USPTO receipt a return postcard. Petitioners have also included a copy of the reply, a request for continued examination that advises that the required submission was previously submitted. The date stamp on the copy of the return postcard is illegible. However, the copy of the RCE bears a certificate of mailing date of May 25, 2007 in accordance with 37 CFR 1.8.

In view thereof, it is found that a reply to the Office communication was timely filed.

The original response referenced by petitioners has not been located in the application file. Accordingly, the copy of the reply submitted herewith will be used for examination purposes.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 2600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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**13831 NORTHWEST FREEWAY**
**SUITE 355**
**HOUSTON TX 77040**

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Adrian J. Denvir et al :
Application No. 10/090,444 :
Filed: March 4, 2002 :
Attorney Docket No. LYNN/0153.A :

This is a decision on the petition, filed September 1, 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.

The examiner of Technology Center AU 1742 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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Paper No. 9

FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES, CA 90045

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OFFICE OF PETITIONS

In re Application of :
Octavian Iancea, et al. :
Application No. 10/090,472 : DECISION ON PETITION
Filed: March 4, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. ENDOV-55672 :

This is a decision on the petition, filed July 9, 2003, under 37 CFR 1.137(b) to revive the instant nonprovisional application.

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on February 21, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

A petition under 37 CFR 1.137(b) to revive for failure to timely notify the Office of the filing of an application in a foreign country must be accompanied by:

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

This application is being forwarded to Technology Center 3700, Art Unit 3731 for examination in due course.

Telephone inquiries concerning this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Frances Hicks at (703) 305-8680.

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

Frances Hicks
Petitions Examiner

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ASHBURN, VA 20146-0826

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OFFICE OF PETITIONS

In re Application of :
Nishiyama, et al. :
Application No. 10/090,476 : ON PETITION
Filed: March 4, 2002 :
Attorney Docket No. MATS:037 :

This is a decision on the petition under 37 CFR 1.137(a), filed November 15, 2004 and supplemented on April 12, 2005, which has been treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed April 9, 2003. Accordingly, this application became abandoned on July 10, 2003. A Notice of Abandonment was mailed on March 15, 2004.

Petitioner asserts that a proper response was, in fact, timely filed in response to the final Office action in the form of an Request for Continued Examination (RCE) and an amendment with a request for a three (3) month extension of time on October 9, 2003. In support, petitioner has submitted a copy of the originally filed RCE and amendment with the request for a three (3) month extension of time. The RCE and amendment with the request for a three (3) month extension of time contain an executed Certificate of Mailing under 37 CFR 1.8 dated October 9, 2003.

Accordingly, the petition is granted and the holding of abandonment is withdrawn.

A petition fee has not been charged.

The file is being forwarded to Technology Center 2800 for review and processing of the RCE, originally filed October 9, 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/Patent
United States Patent and Trademark Office

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Paper No. 16

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LOS ANGELES CA 90045

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OFFICE OF PETITIONS

In re Application of
Timothy A. M. Chuter et al.
Application No. 10/090,492
Filed: March 4, 2002
Attorney Docket No. ENDOV-55673
Title: ENDOVASCULAR GRAFT DEVICE AND METHODS FOR ATTACHING COMPONENTS THEREOF

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

This is a decision on the petition filed on July 8, 2003, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

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

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign application on February 24, 2003. However, the United States Patent and Trademark

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

Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

On May 29, 2003, a Notice of Rescission of Nonpublication Request was filed with the Office. Unfortunately, this was not accompanied by a notice of the foreign filing.

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

37 C.F.R. §1.137(f) requires a statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(f), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(f) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

Petitioner has submitted the notification of a foreign filing, paid the petition fee, and has made a statement which is being construed as the proper statement of unintentional delay.

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

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

After this decision is mailed, the application will be forwarded to Technology Center 3700 for further processing.

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

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

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.**:10052005

**DATE** : October 5, 2005

**TO SPE OF** : ART UNIT 2683

**SUBJECT** : Request for Certificate of Correction on Patent No.: 09-655403

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:**

WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
**SPE:** Bill Trost **Art Unit** 2683

OIPE IAP43 SEP 15 2005 PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | |
|---|---|
| In the **PATENT** of: | |
| | Ozluturk et al. |
| **Patent No.:** | 6,904,292 B2 |
| **Issued:** | June 7, 2005 |
| **Appln. No.:** | 10/090,496 |
| **Filed:** | March 4, 2002 |
| For: BASE STATION HAVING AN ADAPTIVE RF AMPLIFIER PRELIMITER | |

Our File: I-2-0115.1US

Date: September 13, 2005

## 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. §255 and 37 C.F.R. §1.323 is requested for U.S. Patent No. 6,904,292. Correction of the following typographical errors is requested.

## IN THE DRAWINGS

Please replace Figure 2 with replacement Figure 2 attached hereto.

09/16/2005 SDENBOB1 00000009 030435 6904292
01 FC:1811 100.00 DA

## IN THE SPECIFICATION

At column 3, line 2, after the word "power", delete "level" and insert therefor --levels--.

SEP 22 2005

## REMARKS

In Figure 2, item number "24" was added to designate the transmitter section and item number "26" was added to designate the receiver section. These designations were used in a plurality of sections in the specification. No new matter has been added.

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 Applicant, please charge the surcharge fee of $100 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,

Ozluturk 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/kml



SEP 2 2 2005

OIPE IAP43
SEP 15 2005
PATENT & TRADEMARK OFFICE



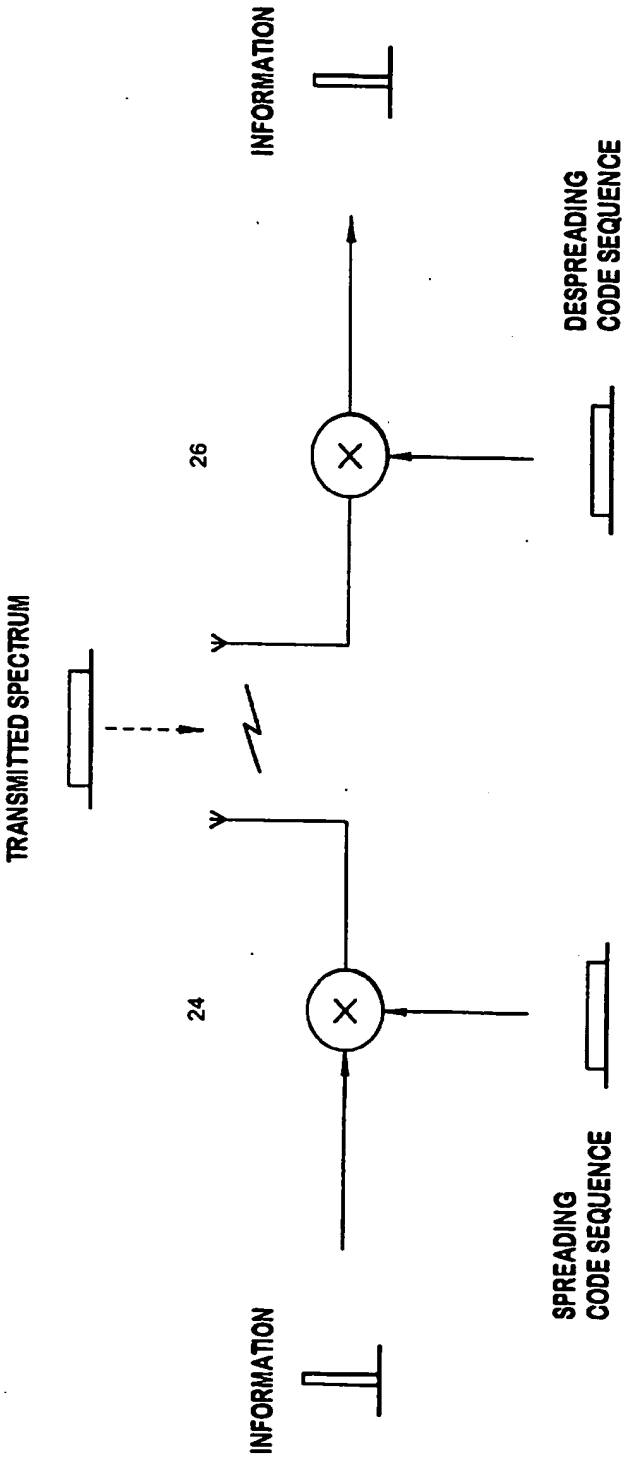


FIG. 2
PRIOR ART

PTO/SB/44 (04-05)
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



PATENT NO. : 6,904,292 B2

APPLICATION NO.: 10/090,496

ISSUE DATE : June 7, 2005

INVENTOR(S) : Ozluturk et al.

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

IN THE DRAWINGS

Replace Figure 2 with replacement Figure 2:

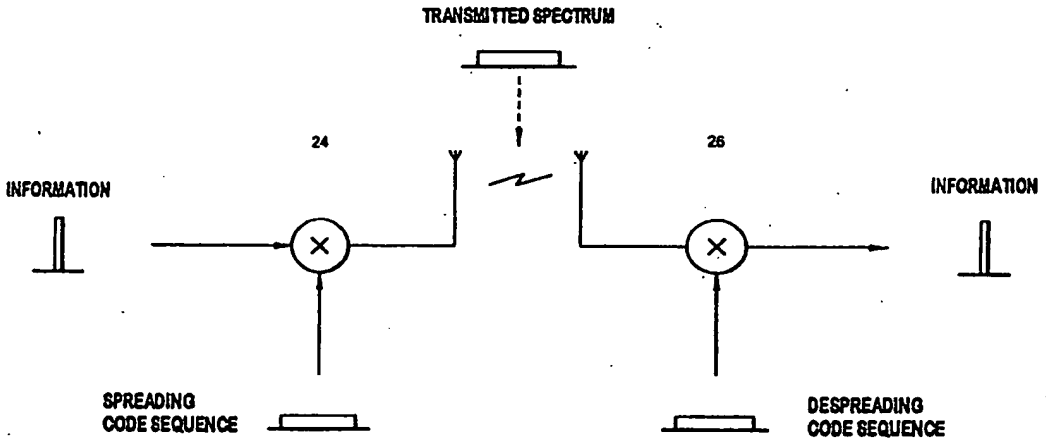


FIG. 2
PRIOR ART

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.*

PTO/SB/44 (04-05)
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



PATENT NO. : 6,904,292 B2

APPLICATION NO.: 10/090,496

ISSUE DATE : June 7, 2005

INVENTOR(S) : Ozluturk et al.

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

IN THE SPECIFICATION

At column 3, line 2, after the word "power", delete "level" and insert therefor --levels--.

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.*

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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JJGJR.: 04-06

Paper No: __

MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE OH 44632

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APR 0 7 2006

**OFFICE OF PETITIONS**

ON PETITION

In re Application of
Michelson :
Application No. 10/090,506 :
Filed: 27 February, 2002 :
Attorney Docket No. 101.0054-03000 :

This is a decision on the petition filed on 16 March, 2006, to revive the above-identified application under 37 C.F.R. §1.137(b)

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

## BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due mailed on 4 October, 2005, with a reply due under a non-extendable deadline on or before 4 January, 2006;
- Petitioner's submission of fees due was made by authorization to a deposit account and at the time the transaction was attempted to be charged there were insufficient funds in the account;
- as a result, the application was deemed abandoned after midnight 4 January, 2006;
- the Office mailed the Notice of Abandonment on 21 February, 2006;

- the instant petition (with fee authorization) filed under 37 C.F.R. §1.137(b) is accompanied by the reply in the nature of fees due and the statement of unintentional delay.

## STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2] Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

---

[1] 35 U.S.C. §133 provides:

**35 U.S.C. §133 Time for prosecuting application.**

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

Petitioner has satisfied the requirements under the regulation.

## CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Publications Branch to be processed into a patent in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared and/or deposited for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely prepared and/or deposited for shipment.

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

3COM CORPORATION
350 CAMPUS DRIVE
MARLBOROUGH, MA 01752-3064

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Peter M. Rigstad | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7624434 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 10/090,543 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 03/01/2002 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **552** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 8

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

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AUG 2 6 2003

OFFICE OF PETITIONS

In re Application of
Johnston et al.
Application No. 10/090,544
Filed: March 4, 2002
Attorney Docket No. 1999-0660

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed May 19, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the 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 instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on February 17, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

The 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.

This application is being forwarded to the Office of Initial Patent Examination to issue a corrected filing receipt indicating a projected publication date.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GARDERE / JHIF
GARDERE WYNNE SEWELL, LLP
1601 ELM STREET
SUITE 3000
DALLAS TX 75201

COPY MAILED
DEC 15 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Naji et al. | : | |
| Application No. 10/090,561 | : | DECISION ON PETITION |
| Filed: March 4, 2002 | : | |
| Attorney Docket No. 131279-1019 | : | |

This is a decision on the petition, filed July 8, 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.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of November 1, 2007, which set a three (3) month shortened statutory period for reply. A reply was due on or before February 1, 2008.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on April 30, 2008 of, *inter alia,* RCE, IDS, terminal disclaimer, three month extension of time. MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." A certificate of mailing pursuant to 37 CFR 1.8 was also included.

A review of the record shows that the Office is in receipt of the above documents as well as an amendment.

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

This application is being referred to Technology Center AU 1793 for appropriate action in the normal course of business on the reply received with petition.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

GARDERE / JHIF
GARDERE WYNNE SEWELL, LLP
1601 ELM STREET
SUITE 3000
DALLAS TX 75201

MAILED

OCT 21 2009

OFFICE OF PETITIONS

In re Application of :
Naji et al. :
Application No. 10/090,561 : ON PETITION
Filed: March 4, 2002 :
Atty Docket No. 131279-1019 :

This is in response to the four petitions each entitled "PETITION FOR WITHDRAWAL OF THE RECORDED TERMINAL DISCLAIMER (SUBMITTED UNDER 37 C.F.R. 1.182)" filed February 26 and 27, 2009, and March 2, 2009, requesting that the terminal disclaimers of patent Nos. 6,346,146, 6,506,248, 6,572,697 and 6,676,745[1] erroneously filed in the instant application on June 27, 2005 be cancelled or otherwise nullified.

The petitions are **GRANTED**.

The terminal disclaimers filed on June 27, 2005, are hereby **WITHDRAWN**.

The examiner states that the terminal disclaimer does not apply to any claim currently of record for the proper reasons set forth by applications in their response to withdraw TD. The limitations of their instant claims would not appear within the teaching of the prior art. Thus, according to the examiner, it is permissible to withdraw the terminal disclaimers.

It should be noted that this decision is not a determination that the subject matter of the current claims is distinct from

[1] It is noted that there is a terminal disclaimer of record directed to Patent No. 6,749,897 filed April 30, 2008 that is not the subject of any of these petitions.

the claims in the patents and/or applications to which the terminal disclaimer applied.

Receipt of the petition fee of $400 on filing of each petition is acknowledged.

Technology Center AU 1793 has been advised of this decision. The application is being referred to the Technology Center for further action in light of this decision, **including withdrawal of the terminal disclaimers filed on June 27, 2005**, and in light of the filing of a request for continued examination (RCE) on April 8, 2009 and the subsequent filing of Information Disclosure Statements on April 8 and 10, 2009 and September 4, 2009.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/7/06

TO SPE OF : ART UNIT 2683

SUBJECT : Request for Certificate of Correction on Patent No.: 6968202

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.

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

**Comments:**

The changes put forth are accepted. They do NOT change the scope of the technical material of the patented claims.

/Stephen D'Agosta/ — **SPE**

2617 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 14

Christopher W. Corbett
Dunlap, Codding & Rogers, P.C.
Suite 420
9400 North Broadway
Oklahoma City, OK 73114

COPY MAILED

NOV 2 1 2003

OFFICE OF PETITIONS

In re Application of
Donald E. Weder
Application No. 10/090,567
Filed: February 28, 2002
Attorney Docket No. 8403.522

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2003, 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 April 10, 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 July 10, 2003.

In response to the non-final Office action, petitioner submitted with the instant petition an authorization to charge $1,330 for the petition to revive fee, $950 for a three (3) months extension of time, and an amendment.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $950 extension of time submitted with the petition on October 20, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

The application file is being forwarded to Technology Center 3600, for consideration of the amendment filed with the instant petition.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Eugene Oak, Ph.D., J.D
610 S. Van Ness Ave.
Los Angeles CA 90005

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JUL 11 2007

OFFICE OF PETITIONS

In re Application of :
John Park :
Application No. 10/090,571 : ON PETITION
Filed: March 5, 2002 :
Attorney Docket No. 911-4100 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 5, 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 Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) 1 and 3 above.

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) 272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

**EUGENE OAK,** Ph.D., J.D., Immigrations & Patent Attorney
610 S. Van Ness Ave., Los Angeles, California 90005
Tel: (213) 365-2229, Fax: (213) 365-2878

OIPE IAP22
AUG 03 2007
PATENT & TRADEMARK OFFICE

July 31, 2007

Mail-Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA, 22131-1450

Examiner: Sebastiano Passaniti
Art Unit No.: 3711
RE: Petition to Revive Unintentionally Abandoned Application
Applicant's Name: John PARK
Application No.: 10/090,571
Attorney Docket No.: 911-4100

RECEIVED
AUG 09 2007
OFFICE OF PETITIONS

Dear Sir or Ma'am:

Submitted herewith for filing s to revive an unintentionally abandoned application. The applicant, Mr. John Park, has been out of the country since January of 2003 because his father, in South Korea, is 85 years old and was in critical condition and passed away on January 31, 2007. The unintentional circumstances resulted in his missing of timing to respond to the Office Action mailed on February 9, 2003. Now, the applicant agrees to revise this application.

Thank you for your time and kind consideration. should you have any questions or need additional information, please do not hesitate to contact the undersigned.

Respectfully submitted,

Eugene Oak, Ph.D., J.D.
Patent Attorney
EO/scn
enclosure:
-Petition for Revival of an Application for Patent Abandoned Unintentionally
-filing fee check for $750

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

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MAR 14 2008

OFFICE OF PETITIONS

Eugene Oak, Ph.D.,J.D.
610 S. Van Ness Avenue
Los Angeles, CA 9005

In re Application of
John Park
Application No. 10/090,571
Filed: March 5, 2002
Attorney Docket No. 911-4100

ON PETITION

This is a renewed decision on the petition, filed August 3, 2007 and supplemented on February 20, 2008, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the non-final Office action mailed February 13, 2003, which set a shortened statutory period for reply of three(3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 14, 2003.

The application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The application file is being forwarded to Technology Center 3700, Art Unit 3711 for consideration.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3213.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Verizon Corporate Services Group, Inc.
c/o Christian R. Andersen
600 Hidden Ridge Drive
Mailcode HQEO3H14
Irving, TX 75038

COPY MAILED

NOV 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Patrick Peterson, et al. :
Application No. 10/090,579 : ON PETITION
Filed: March 4, 2002 :
Attorney Docket No. 01-4004C :

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being referred to Technology Center 2600 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 20, 2006

TO SPE OF : ART UNIT 2655

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/090589 Patent No.: 6,975,580

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:** _____

ALI NEYZARI
PRIMARY PATENT EXAMINER

**SPE** **Art Unit** 2627

PTO/SB/44 (07-03)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

# UNITED STATES PATENT AND TRADEMARK OFFICE
## CERTIFICATE OF CORRECTION

PATENT NO. : 6,975,580

DATED : December 13, 2005

INVENTOR(S) : Charles T. Rettner, Barry C. Stipe

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

In column 19, line 12, replace "45" with -- 40 --

In column 20, line 5, replace "46" with -- 41 --

In column 20, line 7, replace "45" with -- 40 --

MAILING ADDRESS OF SENDER:

IBM Corporation, Daniel E. Johnson, Dept. C4TA/J2B
650 Harry Road
San Jose, CA 95120-60996.

PATENT NO. 6,975,580

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.*

## Neyzari, Ali

**From:** Talley, Magdalene
**Sent:** Tuesday, August 07, 2007 1:45 PM
**To:** Neyzari, Ali
**Cc:** Powell, Mark
**Subject:** Outstanding Request for Certificate of Correction Serial no. 10/090589-6975580

The patent file for serial no. 10/090589 was sent to you or your location art unit 2655 on March 20, 2006. The file is needed to process an outstanding request filed by applicant/attorney Feb. 2,2002. Please approve/deny file on the Ptol-306 form in EDAN-COCX and have it scanned back to me ASAP.

Thanks for immediate response.

Magdalene Talley
Legal Instrument Examiner
(703)-308-9390 ext.116

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

**DATE** : April 28, 2005

**TO SPE OF** : ART UNIT 1732

**SUBJECT** : Request for Certificate of Correction on Patent No.: 6,793,192

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 – RM 9A22**

Palm location 7580 - Tel. No. 308-9390

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

***Please see the IFW Code COCIN, and code DIST – the terminal disclaimer.***

***Please return to PUBSCOFC, STACY POWELL, ASAP.***

## Thank You For Your Assistance

Certificates of Correction Branch

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

Note your decision on the appropriate box.

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

**Comments:**

MICHAEL P. COLAIANNI
SUPERVISORY PATENT EXAMINER

1732

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER NJ 07921

**COPY MAILED**

MAY 29 2007

**OFFICE OF PETITIONS**

In re Application of :
David Arthure Berkley et al. :
Application No. 10/090,602 : ON PETITION
Filed: March 5, 2002 :
Attorney Docket No. 2685/5944 :

This is a decision on the petition filed May 18, 2007 to withdraw the holding of abandonment which is being treated under 37 CFR 1.181.

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

This application became abandoned December 22, 2006 for failure to file a proper and timely response to the non-Final Office Action mailed September 21, 2006. Accordingly a Notice of Abandonment was mailed May 7, 2007.

Petitioner claims that the Office Action and Notice of Abandonment were mailed to the previous attorneys of record.

A review of the file reveals however that a power of attorney and address change was filed on March 14, 2006 but that the information was not updated prior to the mailing of the non-Final Office Action on September 21, 2006. Thus, the Office Action and Notice of Abandonment were mailed to the wrong address and as petitioners claim, not received.

In view of the above, no petition fees are due and none have been charged.

The Notice of Abandonment is withdrawn and this matter is being referred to Technology Center 2616 for a re-mailing of the non-Final Office Action previously mailed September 21, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 10/090,602 | 03/05/2002 | David Arthur Berkley | 2685/5944 |

**CONFIRMATION NO. 7682**

*OC000000024082439*

23838
KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Date Mailed: 05/25/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/14/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Patricia Faison-Ball

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 10/090,602 | 03/05/2002 | David Arthur Berkley | 2685/5944 |

**CONFIRMATION NO. 7682**

*OC000000024082439*

23838
KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Date Mailed: 05/25/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/14/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

AT&T Corp
Room 2A207
One AT&T Way
Bedminster, NJ 07921

Patricia Faison-Ball

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
NEW ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 10/090,602 | 03/05/2002 | David Arthur Berkley | 2685/5944 |

**CONFIRMATION NO. 7682**

26652
AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER, NJ 07921

*OC000000024082476*

Date Mailed: 05/25/2007

## NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/14/2006.

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.

Patricia Faison-Ball

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER NJ 07921

COPY MAILED

JUN 20 2008

OFFICE OF PETITIONS

In re Application of :
Berkley, et al. :
Application No. 10/090,602 : ON PETITION
Filed: March 5, 2002 :
Attorney Docket No. 2685/5944 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 18, 2008, 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 1, 2007. Accordingly, this application became abandoned on February 2, 2008. A Notice of Abandonment was mailed on February 26, 2008.

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 1, 2007 Notice of Allowance and Fee(s) Due, 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.

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: RONALD D. SLUSKY
353 WEST 56TH STREET – SUITE 5L
NEW YORK NY 10019

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Salvatore J. Maiorino
827 Hylan Blvd.
Staten Island NY 10305

COPY MAILED

SEP 14 2005

OFFICE OF PETITIONS

In re Application of
Mahoney et al.
Application No. 10/090,658
Filed: March 5, 2002
Title: Electronic Toll Collection Tag Holder For A Motorcycle

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 29, 2005, to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due, and submit corrected drawings, as required by the Notice of Allowability both of which were mailed January 31, 2005. The Notice of Allowance and Issue Fee Due and the Notice of Allowability set a three (3) month period for reply. Extensions of time were not available under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on May 3, 2005. A Notice of Abandonment was mailed on August 4, 2005.

The requirements to revive a petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SALVATORE J. MAIORINO
827 HYLAN BLVD.
STATEN ISLAND, NY 10305

MAILED

JUN 01 2010

OFFICE OF PETITIONS

In re Patent No. 6,957,755 :
Issue Date: October 25, 2005 :
Application No. 10/090,658 : ON PETITION
Filed: March 5, 2002 :
Attorney Docket No.: None :

This is a decision in response to a petition under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent, filed January 29, 2010.

The petition is **DISMISSED**.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item 3 above.

Petitioner should note that the fees required for consideration of the present petition total $2,130, for the $490 maintenance fee and the $1,640 surcharge. While the present petition indicates $2,130 is enclosed, petitioner submitted a check for $2,030 (copy enclosed), resulting in a fee deficiency of $100. The petition does not include an authorization to charge any fee deficiencies to a deposit account. Accordingly, this petition cannot be granted at this time.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

**Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f), as well as the $100 balance of the requisite surcharge, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.**

If petitioner does not wish to pursue reinstatement of this expired patent, petitioner may request a refund of the $2,030 fees submitted with the petition. The request should be made in writing and addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

| | |
|---|---|
| By mail: | Mail Stop PETITIONS<br>Commissioner for Patents<br>Post Office Box 1450<br>Alexandria, VA 22313-1450 |
| By hand: | Customer Service Window<br>Mail Stop Petitions<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |
| By fax: | (571) 273-8300<br>ATTN: Office of Petitions |
| By Internet: | EFS-Web[1] |

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (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

MAILED

MAY 21 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Douglas J. McEvoy
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
280 North Old Woodward, Suite 400
Birmingham MI 48009

In re Application of :
Thomas M. Shea :
Application No. 10/090,719 :
Filed: March 4, 2002 :
For: AISLE WAY END EXTENDER BRACKET FOR USE WITH A VERTICALLY EXTENDING MERCHANDISING SUPPORT SURFACE

**DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT**

The letter filed January 13, 2004 is being 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 April 30, 2003.

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____. and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

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

KJD/mjz: 5/6/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-9889

MAIL

APR 0 6 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Figueroa, et al

Application No. 10/090,735
Filed: March 6, 2002
For: ARRANGEMENTS FOR MINIMIZING SIGNAL PATH DISCOUNTINUITIES

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on July 16, 2003.

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

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents listed in the withdrawal filed July 16, 2003 are withdrawn.

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

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

CC: c/o Anne Richards
Schwegman, Lundberg, Woessner & Kluth P.A.
1600 TCF Tower
121 S. 8th Street
Minneapolis, MN 55402

4710

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Arlington, VA 22209-3873

NOV - 8 2006

In re Application of:
Kyoko Ikawa et al.
Serial No.: 10/090,738
Filed: March 6, 2002
Attorney Docket No.: 501.39180RC1

DECISION *SUA SPONTE*
WITHDRAWING THE HOLDING
OF ABANDONMENT

This is a decision, sua sponte, withdrawing the holding of abandonment of the above-identified application.

A Notice of Abandonment was mailed on February 17, 2004. The application was held abandoned for failure to timely file a proper reply to the Office action mailed on May 2, 2003.

A review of the application record reveals a response to the Office action of May 2, 2003 (an Ex Parte Quayle action) was filed on October 2, 2003. The response was timely since it was filed with a petition and fee for a three month extension of time.

Accordingly, the Notice of Abandonment mailed on May 2, 2003 is hereby VACATED and the holding of abandonment is withdrawn.

The Technical Support Staff of Technology Center 2800 will enter the response of October 2, 2003 and forward the application to the examiner for consideration of the response.

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

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

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JUN 0 6 2002

OFFICE OF PETITIONS

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD CT 06905

In re Application of
Jorasch, et al.
Application No. 10/090,795
Filed: March 5, 2002
Attorney Docket No. 02-004
FOR: METHOD AND APPARATUS FOR MONITORING TELEPHONE STATUS

: DECISION GRANTING
: PETITION

This is a decision on the petition entitled, "PETITION TO REQUEST ACCEPTANCE OF FILING DATE," filed March 26, 2002 (certificate of mailing date March 21, 2002), requesting that the above-identified application be accorded a filing date of March 5, 2002 instead of the presently accorded date of March 6, 2002.

Petitioners allege that the application was deposited in "Express Mail" service with the U. S. Postal Service (USPS), on March 5, 2002. In support, petitioners provided a copy of the itemized return receipt postcard submitted with the original filing that lists Express Mail label no. EV013984440US and a mail date of March 5, 2002 thereon. The postcard contains an Office of Initial Patent Examination generated barcode with a date stamp of March 6, 2002 affixed thereto. This is *prima facie* evidence that the application was filed on March 6, 2002. MPEP 503.

Although petitioners have not provided a copy of the Express Mail label in question, petitioners have submitted a printout of the USPS Shipping Center Track and Confirm information for the package associated with EV013984440US. The USPS printout states that the package was delivered to the Office on March 6, 2002. Petitioners request that the application be accorded a filing date of March 5, 2002.

While petitioners' evidence supports the accordation of a March 6, 2002 filing date to the instant application, an independent search of the USPS Shipping Center Track and Confirm web site reveals that the application was en route on March 5, 2002 at 6:57 pm in Stamford, CT. This is convincing evidence that the application was deposited as "Express Mail" with the US Postal Service on March 5, 2002.

The petition is granted.

As this is a feeless petition, no petition fee has been or will be charged.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of March 5, 2002.

Telephone inquiries concerning this matter should be directed to the undersigned at (703)308-6712.

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

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OCT - 3 2003

In re Application of
Yuan-Liang Li
Application No. 10/090,796
Filed: March 6, 2002
For: SHUNTING ARRANGEMENTS TO REDUCE HIGH CURRENTS IN GRID ARRAY CONNECTORS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request filed by Paul J. Skwierawski to withdraw as attorney/agent of record pursuant to 37 C.F.R. § 1.36 filed on July 2, 2003. It appears that Mr. Skwierawski intends to sign on behalf of all of the attorneys/agents presently of record and the request is being taken as such. If such is not the case, the U.S. Patent and Trademark Office should be so notified. Applicant is reminded that the U.S. Patent and Trademark Office does not recognize powers of attorney naming firms of attorneys or agents. See MPEP § 402. This applies equally to requests to withdraw as attorney or agent.

Nevertheless, 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.

The application currently has no attorney/agent of record.

As requested, all future communications from the Office will be directed to Anne Richards at the address provided below unless otherwise notified by applicant.

This application remains under final rejection based upon the final rejection that was mailed on June 11, 2003. An advisory action was mailed on July 10, 2003 noting that the proposed amendment(s) filed on June 24, 2003 would not be entered.

All inquiries relating to this decision should be directed to Edward Westin at (703) 308-4823.

Edward Westin

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

cc: c/o Anne Richards
Schwegman, Lundberg, Woessner & Kluth P.A.
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121 S. 8th Street
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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 8

Abrosimov Igor
Office 501
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COPY MAILED

MAR 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Igor Anatolievich Abrosimov :
Application No. 10/090,815 : DECSION ON PETITION
Filed: March 6, 2002 :
Attorney Docket No.: 2302
Title: TIMING DELAY GENERATOR AND :
METHOD USING TEMPERATURE :
STABILISATION :

This is a decision on the petition filed February 24, 2004, pursuant to 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (first notice[2]), mailed April 8, 2002, which set a shortened statutory period for reply of two (2) months.

On July 11, 2002, a one-month extension of time was received, along with the required fees. However, a new oath or declaration was not included. As such, a Notice of Incomplete Reply – Nonprovisional (second notice) was mailed on July 30, 2002. The second notice did not extend the period for response.

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1 A grantable petition pursuant to 37 CFR §1.137(a) must be accompanied by:

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

(2) the petition fee;

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and;

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

2 The first notice indicated that the basic filing fee was insufficient (an additional $15 was required), a late filing fee surcharge of $65 was required, and the application appeared to have been filed without Figure 1.

No response was received, and no further extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 9, 2002. A Notice of Abandonment was mailed on January 21, 2004.

With the instant petition, Petitioner has supplied the petition fee, a declaration, a statement of facts, and a DHL mailing label.

Petition has met requirements (1) and (2) above. Requirement (4) does not apply.

Regarding the third requirement above, the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR §1.137(a).

**The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard**

35 USC §133 states, "Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable." (emphasis added)

"In the specialized field of patent law, ... the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. His interpretation of those provisions is entitled to considerable deference."[3]

**The standard**

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[4]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[5]

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3 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA)1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir. 1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg, 849 F.2d 1422, 1425, 7 U.S.P.Q.2d (BNA) 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute."

4 Id.

5 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

Nonawareness of a PTO rule will not constitute unavoidable delay[6]

The burden of showing the cause of the delay is on the person seeking to revive the application[7].

A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP is not rendered "unavoidable" due to either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action[8].

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present[9].

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account[10]."

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[11]."

**The regulations and portion of the MPEP relevant to the abandonment of this application**

37 C.F.R. §1.4, entitled "Nature of correspondence and signature requirements," states, in part:

(a) Correspondence with the Patent and Trademark Office comprises:
(1) Correspondence relating to services and facilities of the Office, such as general inquiries, requests for publications supplied by the Office, orders for printed copies of patents or trademark registrations, orders for

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6 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)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

7 Id.

8 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

9 In re Mattullath, 38 App. D.C. at (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).

10 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.

11 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

copies of records, transmission of assignments for recording, and the like, and

(2) Correspondence in and relating to a particular application or other proceeding in the Office. See particularly the rules relating to the filing, processing, or other proceedings of national applications in subpart B, 37 C.F.R. §§ 1.31 to 1.378; of international applications in subpart C, 37 C.F.R. §§ 1.401 to 1.499; of *ex parte* reexaminations of patents in subpart D, 37§§ 1.501 to 1.570; of interferences in subpart E, §§ 1.601 to 1.690; of extension of patent term in subpart F, 37 C.F.R. §§ 1.710 to 1.785; of *inter partes* reexaminations of patents in subpart H, 37 C.F.R. §§ 1.902 to 1.997; and of trademark applications 37 C.F.R. §§ 2.11 to 2.189.

(b) Since each file must be complete in itself, a separate copy of every paper to be filed in a patent or trademark application, patent file, trademark registration file, or other proceeding must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical. The filing of duplicate copies of correspondence in the file of an application, patent, trademark registration file, or other proceeding should be avoided, except in situations in which the Office requires the filing of duplicate copies. The Office may dispose of duplicate copies of correspondence in the file of an application, patent, trademark registration file, or other proceeding.

(c) Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

MPEP 501(III), entitled "Papers Received by Office of Initial Patent Examination", sets forth, in part:

Those who correspond with the USPTO are strongly encouraged not to include correspondence which will have to be directed to different areas (e.g., Patents and Trademarks) of the Office in a single envelope. Including multiple papers in a single envelope increases the likelihood that one or more of the papers will be delayed before reaching the appropriate area. Placing the papers in separately addressed envelopes will reduce the number of actions being performed by the USPTO unnecessarily or inappropriately.

MPEP 503, entitled "Application Number and Filing Receipt," states, in part:

RETURN POSTCARD

The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as prima facie evidence of receipt of those items.

## Application of the standard to the current facts and circumstances

Unfortunately, petitions filed under 37 C.F.R. §1.137(a) (where the cause of the abandonment is characterized as "unavoidable") have a very stringent standard associated with them.

With the instant petition, Petitioner has set forth that on July 30, 2002, a response was sent to the Office via DHL courier services. Petitioner states:

A response to the Notice of Incomplete reply of July 30, 2002 was sent by DHL courier services on August 23, 2002.

Please note that the package of the same date, i.e. of August 22, 2002 contained also a new US patent application, which was delivered on 28 August and accorded Serial number 10/229,082. We have a confirmation from the USPTO that these papers were received on August 28, 2002. So, we believe that the response was received too.

It is not clear what Petitioner means by "of the same date," as August 23, 2002 is not the same date as August 22, 2002. As the enclosed DHL label bears a date of "23/08/02," it is assumed that "August 22" is a typographical error.

It appears that the applicant enclosed both the required reply *and* a brand new patent application (which would later receive the serial number 10/229,082) in the same envelope.

It is possible that the response was assumed to be part of the new application. As set forth above, MPEP 501 advises Applicants against bundling separate matters together and mailing them in a single envelope so as to avoid this type of occurrence.

Since the Petitioner engaged in an activity which the MPEP explicitly recommends against, the delay was perhaps unintentional but certainly not unavoidable.

Furthermore, the postcard receipt Petitioner has supplied does not constitute persuasive evidence pursuant to MPEP 503, as the declaration does appear as an itemized response. All it lists is a series of papers related to an entirely different application, Attorney Docket No. 3202CIP (which later received the serial number 10/229,082).

As such, the petition must be **DISMISSED**.

Any request for reconsideration or petition under 37 CFR 1.137(a) must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.137(a) (and/or 37 C.F.R. §1.137(b))", and should address only the deficiencies set forth above. This is **not** a final agency action within the meaning of 5 U.S.C 704.

**Alternate venue**

Petitioner may also wish to consider filing a petition under the unintentional standard, 37 CFR §1.378(b)[12]. Petitioner should be made aware that although the surcharge is significantly higher ($665.00 for a small entity), the standard associated with a petition filed under this section is far less stringent than the standard associated with a delay asserted to be "unavoidable". A form for this petition may be located at http://www.uspto.gov/web/forms/sb0064.pdf

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12 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 § 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.

The reply to this letter may be submitted by mail[13], hand-delivery[14], or facsimile[15].

The reply should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner. The Petitioner may wish to consider telephoning the undersigned at the number provided below to confirm that the documents were delivered to the undersigned. Please note that the delivery process within the PTO can take as much as three weeks.

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

Petitioner has also filed what appears to be an official Office form which he has altered, so as to bear the title "Petition for Requesting the Later Filing Date." Unfortunately, Petitioner has not set forth what filing date he wishes to receive. As such, the petition will not be worked on. On renewed petition, it is suggested that Petitioner clarify precisely what date he seeks.

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

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

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

14 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

15 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 10

Abrosimov Igor
Office 501
58, Moika Embankment
St. Petersburg 19000-0 RU RUSSIAN FEDERATION

**COPY MAILED**

OCT 21 2004

**OFFICE OF PETITIONS**

In re Application of :
Igor Anatolievich Abrosimov :
Application No. 10/090,815 :
Filed: March 6, 2002 :
Attorney Docket No.: 2302
Title: TIMING DELAY GENERATOR AND :
METHOD USING TEMPERATURE :
STABILISATION :

DECSION ON RENEWED PETITION

This is a decision on the renewed petition filed September 14, 2004, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (first notice[2]), mailed April 8, 2002, which set a shortened statutory period for reply of two (2) months.

On July 11, 2002, a one-month extension of time was received, along with the required fees. However, a new oath or declaration was not included. As such, a Notice of Incomplete Reply –

1 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 § 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 The first notice indicated that the basic filing fee was insufficient (an additional $15 was required), a late filing fee surcharge of $65 was required, and the application appeared to have been filed without Figure 1.

Nonprovisional (second notice) was mailed on July 30, 2002. The second notice did not extend the period for response.

No response was received, and no further extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 9, 2002. A Notice of Abandonment was mailed on January 21, 2004.

On February 24, 2004, the original petition pursuant to 37 C.F.R. §1.137(a) was received, which was dismissed via the mailing of a decision on March 12, 2004.

Six months later, Petitioner filed the instant petition.

With the instant petition, Petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b). Petitioner submitted both the petition fee and the proper statement of unintentional delay. It is noted that the required reply was submitted with the original petition.

The petition is **GRANTED**.

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

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

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COMMISSIONER FOR PATENTS
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Paper No. 11

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JAN 0 4 2006

**OFFICE OF PETITIONS**

In re Application of
Igor Anatolievich Abrosimov
Application No. 10/090,815
Filed: July 11, 2002
Attorney Docket No.: 2302
Title: TIMING DELAY GENERATOR AND METHOD USING TEMPERATURE STABILISATION

LETTER

On October 21, 2004, a decision was mailed which granted the renewed petition under 37 C.F.R. §1.137(b). It is noted that the decision incorrectly indicated that the application had been accorded a filing date of March 6, 2002.

The present application was filed without drawings. A Notice of Missing Parts was mailed on April 8, 2002, which indicated that Figure 1 appeared to have been omitted on filing. On July 11, 2002, Figure 1 was received in response to this notice.

The Office of Initial Patent Examination will be advised to process this application with a filing date of July 11, 2002, the date of receipt of the formerly omitted item, Figure 1, using the original application papers deposited on March 6, 2002, as well as Figure 1, submitted on July 11, 2002. OIPE will then mail a corrected filing receipt.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA VA 22314

In re Application of
KUWABARA, ATSUSHI
Application No. 10/090,818
Filed: March 6, 2002
For: **ELECTROMAGNETIC SOUND PRODUCING DEVICE**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is in response to the Petition to Withdraw the Holding of Abandonment pursuant to 37 CFR §1.181 filed July 14, 2005. No fee is required.

The application is held as abandoned for failure to timely respond to the non-final Office action mailed September 25, 2003. A Notice of Abandonment was mailed May 17, 2005.

Petitioner states that they did not receive the non-final Office action mailed September 25, 2003. In support thereof, petitioner provides a copy of their docket records and provides a statement that the file jacket and docket records were searched and that the non-final Office action was not received.

In the absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The petition complies with all of the requirements set forth above.

A review of the file record also reveals that the non-final Office action was returned to the Office as undeliverable on September 29, 2003.

Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

Accompanying the petition is a response to the Office action originally mailed on September 25, 2003. Accordingly the file is being forwarded to the Technology Center's technical support staff for entry of the response. From there the file will be forwarded to the examiner for action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Mehdi Ganjeizadeh
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COPY MAILED

JUL 17 2002

OFFICE OF PETITIONS

In re Application of
Bertelli et al.
Application No. 10/090,827
Filed: March 6, 2002
Attorney Docket No. A0000179-C1-66-MG

DECISION GRANTING PETITION

This is a decision on the petition filed June 10, 2002, to establish that page 30 of the specification consisting of a page listing references was part of the originally filed application..

On March 6, 2002, the application was filed.

On April 9, 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 March 6, 2002, and advising applicants that page 30 of the specification appeared to have been omitted.

In response, the present petition alleges that page 30 was deposited on March 6, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "REFERENCES ON (4 PGS)" on March 6, 2002.[1] Petitioner has also submitted a copy of the missing documentation- page 30 of the specification which is page 4 of the references.

Upon review of the record, page 30 of the specification deposited on March 6, 2002, has not been located. However, the evidence is convincing that the application papers included page 30 and that page 30 was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of page 30 submitted with the petition will be used for examination purposes.

The petition fee will be credited to deposit account no. 23-0455.

The Notice mailed April 9, 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 March 6, 2002, using the application papers filed on March 6, 2002, and the copy of page 30 of the specification filed on June 10, 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.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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CHARLES E. BAXLEY
90 JOHN STREET, SUITE 309
NEW YORK, NY 10038

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SEP 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Thomas Sheng et al :
Application No. 10/090,854 :
Filed: March 6, 2002 :
Attorney Docket No. 12863B :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 15, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed November 18, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provision of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on February 19, 2004.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on July 15, 2004.

**Petitioner is reminded that the shortened statutory period for reply is set to expire 3 months from the non-final rejection mailed August 9, 2004. Extensions of time may be available under the provisions of 37 CFR 1.136(a).**

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center AU 2872 for further processing.

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

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5718 WESTHEIMER
HOUSTON, TX 77057

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AUG 0 9 2006

OFFICE OF PETITIONS

In re Application of :
J. Barry Winder et al :
Application No. 10/090,859 : DECISION GRANTING PETITION
Filed: March 5, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. Vista-1224 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 17, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the nonfinal Office action mailed June 30, 2003, which set a shortened statutory period for reply of three (3) months. No proper extensions of time under the provisions of 37 CFR 1.136(a) for this application were obtained. Accordingly, the application became abandoned on October 1, 2003. A Notice of Abandonment was mailed on February 11, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply to the nonfinal Office action of June 30, 2003; (2) the $1,500 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of June 30, 2003 is accepted as having been unintentionally delayed.

The filing of a terminal disclaimer is not required in this application as a condition for revival under the provisions of 37 CFR 1.137. *Note* 37 CFR 1.137(d). Therefore, the terminal disclaimer will not be processed. In view of the nonentry of the terminal disclaimer, the $130 terminal disclaimer fee submitted is unnecessary and will be refunded to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 1754 for appropriate action in the normal course of business on the reply received November 17, 2005.

Frances Hicks
Petitions Examiner
Office of Petitions

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Paper No. 6

PERKINS COIE
P.O. BOX 1247
SEATTLE, WA 98111-1247

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SEP 0 4 2003

OFFICE OF PETITIONS

In re Application of :
Scott E. Moore et al :
Application No. 10/090,869 : DECISION GRANTING PETITION
Filed: March 4, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 108298544US :

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 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 February 28, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 11, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Wan Laymon at (703) 306-5685.

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

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of :
Scott E. Moore et al :
Application No. 10/090,869 : DECISION GRANTING PETITION
Filed: March 4, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 108298544US :

This is a decision on the petition, filed June 6, 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 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 1742 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
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**

**STRAUB & POKOTYLO**
**620 TINTON AVENUE**
**BLDG. B, 2ND FLOOR**
**TINTON FALLS, NJ 07724**

In re Application of :
Rajiv LAROIA et al. :
Application No. 10/090,871 : DESCISION ON PETITION
Filed: March 05, 2002 :
Attorney Docket No. Flarion-4/APP :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 26, 2007, 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 August 10, 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 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 November 11, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) 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 August 10, 2006 is accepted as having been unintentionally delayed.

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 2616 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.

David A. Bucci
Petitions Examiner
Office of Petitions

Cc: **DAVID J. HUFFAKER**
**QUALCOMM INCORPORATED**
**ATTN: PATENT DEPARTMENT**
**5775 MOREHOUSE DRIVE**
**SAN DIEGO, CALIFORNIA 92121-1714**

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225 FRANKLIN STREET
BOSTON, MA 02110

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**OFFICE OF PETITIONS**

In re Application of :
SOMERS, William S. et al. :
Application No.: 10/090,879 :
Filing Date: March 4, 2002 :
Docket No.: 16163-025002 :
For: CRYSTAL STRUCTURE OF E.COLI GDP-FUCOSE SYNTHETASE (AND COMPLEXES THEREOF) AND METHODS OF IDENTIFYING AGONISTS AND ANTAGONISTS USING SAME :

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on October 29, 2004.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the Notice to File Corrected Application Papers mailed April 4, 2002. The Notice set a two (2) month period for reply, with extensions of time obtainable under §1.136(a). No extension of time having been obtained and no reply received, the above-identified application became abandoned effective June 5, 2002. A Notice of Abandonment was mailed on January 16, 2004.

Petitioner has met the requirements for revival under §1.137(b). Petitioner submitted the reply in the form of replacement drawings, paid the petition fee and made the required statement of unintentional delay. Since this utility application was filed after June 8, 1995, no terminal disclaimer is required. Accordingly, the petition is granted under §1.137(b).

This application is being returned to Office of Initial Patent Examination for continued processing.

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 3700.

AUG 0 2 2005

Dane C. Butzer
681 Woodduck Ct.
Columbus, OH 43215

| | | |
|---|---|---|
| In re Application of | : | |
| NOEL | : | |
| Serial No. 10/090,889 | : | Decision on |
| Filed March 4, 2002 | : | Petition |
| For: Breast Restraint for Athletic Activity | : | |

A Notice of Abandonment for the above-identified application was mailed December 1, 2004. Applicant filed a petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 on January 24, 2005. In the petition applicant points out that a Notice of Appeal was timely filed on August 3, 2004 after a final rejection mailed May 4, 2004. A check of the file indicates that the USPTO received the Notice of Appeal on August 5, 2004. Additionally the file also indicates that an Appeal Brief and a two-month extension of time were timely filed on December 5, 2004.

In view of the above, the Notice of Abandonment mailed December 1, 2004 is in error. The **Holding of Abandonment is Withdrawn**. This application is being forwarded to the examiner for appropriate action.

Frederick R. Schmidt, Director
Technology Center 3700

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ROBERT C. KOWERT
CONLEY, ROSE, & TAYON, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

NOTICE OF WITHDRAWAL

FROM ISSUE
UNDER 37 CFR 1.313(b)

In re Application of
Brian A. Cameron
Application No. 10/090,893
Filed: March 5, 2002
Attorney Docket No.: 5681-10500
For: SYNCHRONIZATION OF DOCUMENTS BETWEEN A SERVER AND SMALL DEVICES

The application is being withdrawn to permit reopening of prosecution, because the application contains at least one claim that is unpatentable. See 37 CFR 1.313(b)(3).

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 James Dwyer 571-272-0800.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Paul Sewell
Acting Director, Technology Center 2100
Computer Architecture, Software
And Electronic Commerce

UNITED STATES PATENT AND TRADEMARK OFFICE

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Townsend & Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

Paper No. 5

In re application of
Robert Degen et al.
Application No. 10/091,000
Filed: March 4, 2002
For: MONEY TRANSFER EVALUATION SYSTEMS AND METHODS

**DECISION ON PETITION TO MAKE SPECIAL (COUNTER TERRORISM)**

This is in response to the petition filed on March 4, 2002 to make the above-identified application special on the basis of inventions for countering terrorism as set forth in MPEP § 708.02 XI.

The petition is **DISMISSED**.

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); and (B) a statement explaining how the invention contributes to countering terrorism.

Applicant's petition states that "various embodiments disclosed in the application include systems and methods used to detect suspicious activities occurring in relation to money transfers...such as those identified in the wake of the September 11, 2001 attacks". The above statement is insufficient to explain HOW the invention contributes to countering terrorism. The petition lacks any specifics about what specific type of money transfers that are attributable to terrorism, as well as any specifics as to what the "systems and methods" are or how they are to be used to counteract this specific type of terrorism activity. Thus, the statement by the applicant is not seen as being sufficient to accord special status to this application.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Petitioner should promptly submit such a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until any such renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

snm/snm : 11/16/02

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TECHNOLOGY CENTER 3600

Towsend & Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

Paper No. 10

In re application of : **DECISION ON PETITION**
Robert Degen et al. : **TO MAKE SPECIAL**
Application No. 10/091,000 : **(COUNTER TERRORISM)**
Filed: March 4, 2002
For: MONEY TRANSFER EVALUATION SYSTEMS AND METHODS

This is in response to the renewed petition filed on February 18, 2003 to make the above-identified application special on the basis of inventions for countering terrorism as set forth in MPEP § 708.02 XI.

A petition to make special was filed on March 4, 2002. The petition was dismissed in a decision mailed November 19, 2002 wherein it was held that the petition lacked any specifics about what specific type of money transfers that are attributable to terrorism, as well as any specifics as to what the "systems and methods" are or how they are to be used to counteract this specific type of terrorism activity.

Since the requirement lacking in the original petition of March 4, 2002 has now been supplied, all the items required for special status under MPEP § 708.02 XI 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: 3/19/03

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Paper No. 8

HUNTON & WILLIAMS LLP
1900 K STREET, N.W.
WASHINGTON, DC 20006-1500

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AUG 19 2003

OFFICE OF PETITIONS

In re Application of :
Le Page et al. :
Application No. 10/091,007 : ON PETITION
Filed: March 6, 2002 :
Attorney Docket No. 62785.000002 :

This decision concerns the June 6, 2002 "Response to Notice to File Missing Parts" and the July 9, 2003 "Renewed Petition under 37 CFR 1.53(e)." The submissions are being properly treated as a petition under 37 CFR 1.53 to correct the filing date in the above-referenced application.

The petition is **GRANTED.**

On March 6, 2002, the application was filed. On April 22, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application" ("4/22/02 Notice"), stating that the application had been accorded a March 6, 2002 filing date, but that Figures 15-16 appeared to have been omitted from the application as filed on March 6, 2002.[1]

On June 6, 2002, Applicants responded to the 4/22/02 Notice and submitted Figures 15-16 and a declaration.

Subsequently, OIPE changed the filing date for this application to June 6, 2002, the date on which Figures 15 and 16 were filed.

The instant petition contends that the allegedly omitted Figures 15-16 were in fact filed with the other application papers on March 6, 2002. In support, the petition is accompanied by a copy of Applicants' postcard receipt which indicates receipt by the USPTO on March 6, 2002 of, *inter alia*, 110 pages of formal drawings for this application. The postcard receipt identifies the application by the name of the first inventor and title of invention. The petition also encloses copies of the Figures 15-16 (on sheets 109/110 and 110/110, respectively) allegedly filed on March 6, 2002.

The Office file for this application includes 108 sheets of drawings containing Figures 1 (sheets 1/110-98/110), 2 (sheet 99/110), 3 (sheet 100/110), 4 (sheet 101/110), 5 (sheet 102/110), 6 (sheet 103/110), 7 (sheet 104/110), 8-9 (sheet 105/110), 10-11 (sheet 106/110), 12 (sheet 107/110) and

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[1] Also missing was an oath or declaration.

13-14 (sheet 108/110), but not Figures 15-16 or sheets 109-110/110. Based on the information contained in Applicants' postcard receipt, the Office concludes that the sheets of drawings containing Figures 15 and 16 had been filed and received by the USPTO on March 6, 2002, but were later misplaced. The petition is thus granted.

The 4/22/02 Notice is hereby vacated to the extent that it pertains to omitted Figures 15 and 16.

No petition fee is owed. The $130 petition fee submitted with the petition has been credited to Deposit Account No. 50-0206 as authorized.

The application is being forwarded to OIPE for further processing with a filing date of March 6, 2002, using the papers filed on that date and supplemented with the drawings of Figures 15-16 submitted with the petition; for indicating in the USPTO record that 110 sheets of drawings were present upon filing; and for mailing a corrected filing receipt reflecting the March 6, 2002 filing date. Thereafter, the file will be returned to Technology Center 1600 to await a response to the restriction requirement set forth in the June 24, 2003 Office Action.

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

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions

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Paper No. 9

NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON, DC 20375-5320

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**OFFICE OF PETITIONS**

In re Application of :
Eric J. Houser, et al. :
Application No. 10/091,024 : ON PETITION
Filed: March 6, 2002 :
Attorney Docket No. N.C.83,517 :

This is a decision on the petition, filed July 29, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed August 5, 2003. A Notice of Abandonment was mailed on July 29, 2004. In response, the present petition was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9220. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 1621 for consideration of the response filed July 29, 2004.

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

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PATENT GROUP
ATTN: J. KENNETH JOUNG
DLA PIPER RUDNICK GRAY
CARY US LLP
203 N. LASALLE ST., SUITE 1900
CHICAGO IL 60601

In re application of : **DECISION ON PETITION**
Peng Chen, et al : **TO MAKE SPECIAL**
Application No. 10/091,046 : **(ACCELERATED**
Filed: March 5, 2002 : **EXAMINATION)**
For: AUTOMATICALLY ALLOCATING AND REBALANCING DISCRETIONARY PORTIONS

This is in response to the petition filed on April 26, 2004 and supplemental petition of December 14, 2004 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.

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

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/dcg: 8/4/06

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BRIARCLIFF MANOR, NY 10510

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Gerardus Arnoldus Antonius et al :
Application No. 10/091,051 : ON PETITION
Filed: March 5, 2002 :
Attorney Docket No. NL 010979 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 12, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 13, 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.

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

This matter is being forwarded to Technology Center AU 2133 for further processing.

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

cc:

Michael J. Ure
Philips Electronics North America Corp.
1109 McKay Drive MS41-SJ
San Jose, CA 95131

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

Lee, Mann, Smith, McWilliams, Sweeney & Ohlson
P.O. Box 2786
Chicago, IL 60690-2786

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AUG 2 9 2002

OFFICE OF PETITIONS

In re Application of
Moran et al.
Application No.10/091,072
Filed: March 5, 2002
Attorney Docket Number: 476-2098

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR §1.47(a), filed June 11, 2002.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR §1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR §1.136(a).

The above-identified application was filed on March 5, 2002, with a partially executed oath or declaration and naming Thomas Moran, James Harkin, Neil O'Connor, Paul Enright and Thomas Macnamara as co- inventors.

A petition and petition fee to acquire rule 47 status was filed on June 11, 2002.

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

As to item (1), it is not clear in the documents presented whether Rule 47 applicant maintains inventor Enright can not be reached or that Enright refuses to sign the oath or declaration. If it is applicants' contention Enright cannot be reached, applicant must demonstrate diligent efforts were made to find or reach non-signing inventor. See MPEP 409.03(d). Did rule 47 applicant contact known colleagues for a forwarding address of inventor Enright? Was an electronic search conducted to locate the last known address? Did rule 47 applicant look in the phone book for a listing of inventor Enright? Did rule 47 applicant contact former employer Nortel Networks to determine if there was an emergency contact from which forwarding information can be gathered?

The statements made in the petition do not illustrate "diligent effort" was made to locate inventor Enright. Furthermore, the fact that inventor Enright may be traveling does not

present a situation where rule 47 status is granted.[1]

Applicant should present copies of documentary evidence that support a finding that the non-signing inventor could not be found or reached and the steps taken to locate the non-signing inventor. If applicant provides sufficient evidence that diligent effort has been made to locate the inventor and inventor can not be located, 47 applicant is not required to send a copy of the application. Rule 47 applicant failed to show or provide sufficient proof the inventor can not be reached.

If applicant desires to make the case that the non-signing inventor refuses to execute the oath or declaration, applicant will need to establish a copy of the **entire** application package (including specification, claims and drawings) was presented to the non-signing inventor and he refused to sign. The facts presented in the petition indicate application papers may have been delivered via Cosignia, however there has not been verification of the delivery. If it can be established that the application papers were delivered to the last known address of inventor Enright and there has been no response to the application papers, this may be construed as a refusal by the inventor to execute the application papers. However, rule 47 applicant must give the non-signing inventor an opportunity to sign the oath or declaration by sending the application papers to the last known address of the inventor. If applicant is aware the non-signing inventor can not be reached at the address provided on the declaration, applicant should make a showing that diligent effort has been made to locate the inventor.

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

| | |
|---|---|
| By mail: | Commissioner for Patents<br>Box DAC<br>Washington, D.C. 20231 |
| By FAX: | (703) 308-6916<br>Attn: Office of Petitions |
| By hand: | Crystal Plaza Four, Suite 3C23<br>2201 S. Clark Place<br>Arlington, VA 22202 |

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

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

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[1]The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47. See MPEP 409.03(b).

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LEE, MANN, SMITH, MCWILLIAMS, SWEENEY & OHLSON
P.O. BOX 2786
CHICAGO, IL 60690-2786

In re Application of :
Moran; Harkin; O'Connor; Enright & :
Macnamara :
Application No. 10/091,072 :
Filed: March 5, 2002 :
For: USE OF RADIO DATA SERVICE :
(RDS) INFORMATION TO :
AUTOMATICALLY ACCESS A :
SERVICE PROVIDER :

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OFFICE OF PETITIONS

This is in response to the paper filed on September 9, 2002 under 37 CFR 1.47(a), and in response to the supplemental declaration filed September 9, 2002, and supplemented by facsimile transmission on November 8, 2002, signed by previously nonsigning inventor Paul Enright in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for any further consideration under 37 CFR 1.47(a).

Inquiries related to this decision may be addressed to Karen Creasy at (703) 305-8859.

This application is being forwarded to Technology Center Art Unit 2681 for examination in due course.

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

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Paper No. 13

McDonnell Boehnen Hulbert & Berghoff
300 South Wacker Drive
Chicago, IL 60606

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MAR 22 2004

OFFICE OF PETITIONS

In re Application of :
Michael Kapolka et al. :
Application No. 10/091,096 : DECISION GRANTING PETITION
Filed: March 4, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 03-089-B :

This is a decision on the petition, filed May 13, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on March 3, 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 June 10, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 308-6911.

This application is being forwarded to Technology Center Art Unit 3661 for examination in due course.

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

Karen Creasy
Petitions Examiner

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 14

MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

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APR 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Michael Kapolka et al :
Application No. 10/091,096 : DECISION ON PETITION
Filed: March 4, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 03-089-B :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed May 30, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/351,165, filed January 23, 2002.

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 surcharge set forth in 37 CFR 1.17(t);

**(2)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and

**(3)** the reference to the prior-filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. *See* 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(iii). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on March 4, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/351,165, which was filed on January 23, 2002, 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. 60/351,165 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 Karen Creasy at (703) 305-8859.

The application is being forwarded to Technology Center AU 3661 for appropriate action on the amendment submitted May 30, 2003 and for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/351,165, filed January 23, 2002.

Karen Creasy

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

**ATTACHMENT**: Corrected Filing Receipt

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Paper No. 8

Beyer, Weaver & Thomas, LLP
P.O. Box 778
Berkeley, CA 94704-0778

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OFFICE OF PETITIONS

In re Application of
Masayuki Masuda, et. al.
Application No. 10/091,113
Filed: February 28, 2002
Attorney Docket No. OMRNP018

ON PETITION

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

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

In response to the Notice to File Missing Parts, petitioner submitted with the instant petition $770 for the basic filing fee, $430 for claim fees, an oath/declaration, including $130 surcharge for late filing of the oath/declaration, and a certified copy of the priority document.

In the instant petition, petitioner states that the abandonment was due to Patent Office error, and no fee for the petition to revive should be due. A review of the record shows that the Notice to File Missing Parts mailed April 8, 2002, was addressed to the correspondence address of record, which is the same correspondence address listed throughout the application and on the instant petition. A further review of the record indicates that the Notice to File Missing Parts was **not** returned to the USPTO as undeliverable. Therefore, it appears that the Notice was mailed to the correct correspondence address, and the above-identified application was appropriately abandoned after midnight June 8, 2003.

In view of the above, the required $1,330 petition to revive fee is necessary. Therefore, per authorization given in the instant petition, that fee will be charged to petitioner's deposit account.

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

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

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

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

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JUN 03 2004

Office of the Director
Group 3600

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

In re Application of
William Kirby Smith et al.
Application No. 10/091,126
Filed: March 4, 2002
For: PNEUMATIC BALL PROPULSION APPARATUS

**DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT**

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on February 13, 2004 in the United States Patent and Trademark Office. The delay in deciding this petition is regrettable.

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

☐ Postcard receipt being dated_____.

☒ USPTO return facsimile receipt dated December 1, 2003 which identifies the application by serial number and the type of Response that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____. and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

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

KJD/mjz: 6/1/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HARNESS DICKEY & PIERCE PLC
PO BOX 828
BLOOMFIELD MI 48303

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DEC 16 2004

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Patent No. 6,785,932 | : | DECISION ON |
| Daniel Bone | : | PATENT TERM ADJUSTMENT |
| Issue Date: September 7, 2004 | : | AND NOTICE OF INTENT |
| Application No. 10/091,137 | : | TO ISSUE |
| Filed: March 4, 2002 | : | CERTIFICATE OF |
| Attorney Docket No. 0275R-000574 | : | CORRECTION |

This is a decision on the "PETITION TO REQUEST RECONSIDERATION OF PATENT TERM ADJUSTMENT CALCULATION PURSUANT TO 37 CFR 1.705", filed October 27, 2004. Patentee requests that the patent term adjustment indicated on the patent be corrected from one hundred sixty (160) days to two hundred forty-five (245) days.

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

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one hundred ninety-six (196)** days.

On September 7, 2004, the above-identified application matured into U.S. Patent No. 6,785,932. The instant request for reconsideration filed July 30, 2004 was timely filed within two months of the date the patent issued. See § 1.705(d). The Patent issued with a Patent Term Adjustment of one hundred sixty (160) days. Patentee states that the initial determination of patent term adjustment days should not have been reduced to 160 days for the submission of a "COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE".

The adjustment of eighty-five (85) days for the filing of a "COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE" has been found to be incorrect.[1] Accordingly, applicant delay with respect to this filing should have been zero (0) days.

However, pursuant to 37 C.F.R. § 1.704(c)(1), applicant should have been assessed delay of one hundred twenty (120) days for the filing of drawings on April 5, 2004, after the Notice of Allowance was mailed.

In view thereof, the correct determination of PTA at the time of issuance is one hundred ninety-six (196) days (316 days of PTO delay, reduced by 120 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **one hundred ninety-six (196)** 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] 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 has been Mailed, 1247 Off. Gaz. 111 (June 26, 2001).

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

SEP 18 2005

Frederick K. Michaud, Jr.
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

| | | |
|---|---|---|
| In re Application of | : | |
| Robert S. Block et al | : | DECISION ON PETITION |
| Application No. 10/091,140 | : | TO WITHDRAW THE |
| Filed: March 6, 2002 | : | HOLDING OF ABANDONMENT |
| For: BUSINESS ANALYSIS TOOL | | |

This is in reply to applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181(a) filed in the United States Patent and Trademark Office (USPTO) on February 28, 2005.

The petition is **GRANTED**.

A review of the application file reveals that a Final Office action was mailed to applicants on January 29, 2004. A Notice of Appeal was received on June 29, 2004 with a request and payment for an extension of time. A Notice of Abandonment was mailed on December 30, 2004. However, applicants filed a Request for Continued Examination (RCE) and paid the five-month extension of time fee on January 31, 2005.

In the petition applicants argue that the application was prematurely held to be abandoned, since a five-month extension of time would have extended applicants' time in which to file an appeal brief or RCE to January 31, 2005.

Since the application was prematurely held to be abandoned, applicants' petition to withdraw the holding of abandonment is granted.

The application is being forwarded to the Supervisory Legal Instruments to withdraw the holding of abandonment and restore the application to pending status, enter the RCE and forward the application to the examiner for action.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/jwk: 7/7/05

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GREENBERG TRAURIG LLP
2450 COLORADO AVENUE
SUITE 400E
SANTA MONICA, CA 90404

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OFFICE OF PETITIONS

In re Patent No. 6,497,843 :
Issue Date: December 24, 2002 :DECISION GRANTING PETITION
Application No. 10/091,162 :UNDER 37 CFR 1.378(c)
Filed: March 4, 2002 :
Atty Docket No. 56990-010200/CON :

This is a decision on the petition, filed February 23, 2007, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is GRANTED.

The patent issued December 24, 2002. The grace period for paying the first maintenance fee expired at midnight on December 24, 2006. 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.

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:**

**DATE** : 8-6-09

**TO SPE OF** : ART UNIT 1797

**SUBJECT** : Request for Certificate of Correction on Patent No.: 10/091,170

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.

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

**Comments:**

CoC OK

8-6-09

DUANE SMITH
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : John Voneiff | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7600457 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/13/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 10/091,173 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 03/06/2002 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **760** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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P.O. Box 1450
Alexandria, VA 22313-1450
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1/8/08

Patent No. :6921537
Ser. No. : 10091233
Inventor(s) :Zlotnick, Gary W.
Issued : 7/26/05
Title : PREPARATION AND USES OF LOS-DEPLETED OUTER MEMBRANE PROTEINS OF GRAM – NEGATIVE COCCI
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

*In the Request*, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

CAROL E. ROZEK, WYETH
FIVE GIRALDA FARMS
MADISON, NJ 07940

HR

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

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
767 THIRD AVENUE
25TH FLOOR
NEW YORK NY 10017-2023

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**MAY 2 1 2002**

**OFFICE OF PETITIONS**

In re Application of
Takaki, et al.
Application No. 10/091,234
Filed: March 5, 2002
Attorney Docket No. 0211/LH

: DECISION DISMISSING
: PETITION

This is a decision on the petition under 37 CFR 1.10(d),filed March 28, 2002, requesting that the above-identified application be accorded a filing date of March 4, 2002, rather than the presently accorded filing date of March 5, 2002.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on March 4, 2002.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a).

(Emphasis supplied). Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee"
> service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

(Emphasis supplied).

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in 'Express Mail Post Office to Addressee' service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS." Evidence from the USPS may be, for example, the Express Mail Corporate Account Mailing Statement or a statement by an appropriate official of the USPS that according to a USPS record the "date-in" on petitioners' Express Mail receipt is erroneous accompanied by a copy of the relevant USPS record. Evidence that came into being within one day after the deposit of the correspondence as Express Mail may be, for example, a log book which contains information such as the Express Mail label number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of the log book entry.

Petitioners have not submitted Express Mail mailing label no. EV044465440US. However, petitioners have submitted a copy of the USPS Pickup Service Statement that lists Express Mail Label No. EV044465440US. Unfortunately, the name of the person signing the statement, and more importantly, the date and time of the pickup, are illegible. Presumably this can be remedied by adjusting the darkness control on petitioners' photocopying machine. Petitioners are urged to submit a reconsideration petition with a legible date of pickup on the Statement.

The photocopy of the Patent Office Express Mail Record submitted with the petition is not persuasive corroborative evidence of a March 4, 2002 Express Mail deposit because there is no statement from the person who created the entry attesting to the fact that the entry came into existence AFTER the time the package associated with Express Mail Label No. EV044465440US was deposited in Express Mail.

Since the petition filed March 28, 2002, is not accompanied by the corroborating evidence required by the rule, the petition is dismissed.

The application is being forwarded to Technology Center 2600 for examination in due course with a filing date of March 5, 2002.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
767 THIRD AVENUE
25TH FLOOR
NEW YORK NY 10017-2023

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SEP 1 0 2002

OFFICE OF PETITIONS

In re Application of
Takaki, et al.
Application No. 10/091,234
Filed: March 4, 2002
Attorney Docket No. 0211/LH

: DECISION GRANTING
: PETITION

This is a decision on the reconsideration petition under 37 CFR 1.10(d), filed June 24, 2002, requesting that the above-identified application be accorded a filing date of March 4, 2002, rather than the presently accorded filing date of March 5, 2002.

The petition under 37 CFR 1.10(d) is **GRANTED**.

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service on March 4, 2002, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of a United States Postal Service Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post showing that a package bearing Express Mail label No. EV044465440US was picked up on March 4, 2002 at 5:45 pm. The same Express Mail label number is found on the original application papers.

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of

the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

The petition filed June 24, 2002, is accompanied by the corroborating evidence required by the rule. Accordingly, the petition is granted.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **March 4, 2002**.

Thereafter, the application will be forwarded to Technology Center Art Unit 2863 for examination in due course.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 3

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

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JUL 3 0 2002

OFFICE OF PETITIONS

In re Application of :
Hong Su et al :
Application No. 10/091,237 :
Filed: March 4, 2002 :
Attorney Docket No. 10013661-1 :

DECISION GRANTING
PETITION

This is a decision on the paper styled "PETITION" filed May 31, 2002, which is properly treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of March 4, 2002, rather than the presently accorded filing date of March 5, 2002.

Applicants allege that the application was deposited in "Express Mail" service with the U.S. Postal Service, on March 4, 2002. In support, applicants provided a copy of the Express Mail label, receipt no. EV069670328US, showing a Date-In of March 4, 2002. The same Express Mail receipt number was referred to in the copy of the original transmittal letter submitted with the instant petition. Applicants request that the application be accorded a filing date of March 4, 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 March 4, 2002.

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

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to March 4, 2002.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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| | | |
|---|---|---|
| In re Application of | : | |
| SU et al. | : | |
| Application No. 10/091,237 | : | DECISION ON PETITION |
| Filed: 03/04/2002 | : | |
| Attorney Docket No. 10013661-1 | : | |

This is a decision on the petition under 37 CFR 1.181 (no fee), filed July 1, 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 reply to the nonfinal Office action mailed May 21, 2007, which set a three (3) month shortened statutory period for reply. On January 23, 2008, the Office mailed a Notice of Abandonment.

Petitioners assert that the nonfinal Office action dated May 21, 2007, was not received.

A review of the written record indicates no irregularity in the mailing of the Office action and in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received.

As stated in Section 711.03(c)(I)(A) of the Manual for Patent Examining Procedure:

> 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 describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

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

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner submitted a copy of the master docket for the firm where the nonfinal Office action would have been entered had it been received and docketed. The practitioner attested to the fact that a search of the records indicated that the nonfinal Office action was not received at the correspondence address of record. Furthermore, petitioners submitted the Declaration of Michael J. Kraft, Patent

Paralegal, who set forth the procedures for docketing Office communications. Accordingly, petitioners presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

This matter is being referred to Technology Center Art Unit 2612 for further action on the reply submitted with the present petition in the normal course of business.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

FRISHAUF HOLTZ GOODMAN & CHICK
767 THIRD AVENUE, 25TH FLOOR
NEW YORK, NY 10017-2023

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**JUL 2 2 2002**

**OFFICE OF PETITIONS**

In re Application of :
Hisanori Tsuchino : DECISION GRANTING
Application No. 10/091,254 : PETITION
Filed: March 4, 2002 :
Attorney Docket No. 02110/LN :

This is a decision on the petition under 37 CFR 1.10(d), filed March 28, 2002 and supplemented June 24, 2002, requesting that the above-identified application be accorded a filing date of March 4, 2002, rather than the presently accorded filing date of March 5, 2002.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on March 4, 2002, pursuant to 37 CFR 1.10. In support applicant submit, inter alia, a copy of a U.S. Postal Service (USPS) record styled "Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post" showing that a package bearing Express Mail label No. EV044465440US was picked up by the USPS from counsel's office on March 4, 2002. The same Express Mail receipt number was referred to in the copy of the original transmittal letter submitted with the present petition.

Since the evidence from the USPS, namely, the Express Mail pickup Service Statement, corroborates a "date-in" of March 4, 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 for correction of the filing date to March 4, 2002.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ARNOLD & PORTER LLP (18528)
555 TWELFTH ST., NW
WASHINGTON, DC 20004

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APR 27 2006

**OFFICE OF PETITIONS**

In re Application of :
David R. Hathaway :
Application No. 10/091,258 : ON PETITION
Filed: March 5, 2002 :
Attorney Docket No. P03660US7

This is a decision on the petition filed, April 20, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

**Petitioner is advised that the issue fee paid on May 3, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

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

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

This matter is being referred to Technology Center AU 1653 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

cc: Susan J. Myers Fitch
Amylin Pharmaceuticals, Inc.
9360 Towne Centre Drive
San Diego, CA 92121

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

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Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

Amylin Pharmaceuticals
9360 Towne Center Drive
San Diego, CA 92121

In re Application of
Hathaway
Application No. 10/091,258
Filed: March 5, 2002
Attorney Docket NO.0213-CIP3-9

This decision is in response to applicants' APPLICATION FOR PATENT TERM ADJUSTMENT timely[1] filed on August 9, 2006 requesting that the Office adjust the PTA at the time of the mailing of the notice of allowance to at least 430 days.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 4 months of the payment of the issue, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term applicant is entitled to for Office failure to issue the patent within 4 MONTHS OF THE PAYMENT OF THE ISSUE FEE. See § 1.702((a)(4).

As for the request under 37 CFR 1.702(a)(4), 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 4 months of the payment of the issue fee and all other requirements being satisfied.. A copy of this decision should accompany the request. Patentee may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

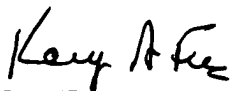
After the mailing of this decision, this application will be forwarded to the Office of patent publications for a prompt issuance of the patent. Any delays under 37 CFR 1.702(a)(4) and 1.703(b) will be added to the determination at the time of the issuance of the patent and the notice of PTA determination will be provided to applicant in the issue notification letter that is mailed to applicant approximately three weeks prior to issuance of the patent.

The Office has assessed the $200.00 fee required of this request. No additional fees are required in considering this matter.

Any questions should be directed to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.

---

[1]Issue fee paid on October 18, 2006.



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

UNITED STATES PATENT AND TRADEMARK OFFICE

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**JOSEPH S. TRIPOLI**
**THOMSON MULTIMEDIA LICENSING, INC.**
**TWO INDEPENDENCE WAY**
**P.O. BOX 5312**
**PRINCETON NJ 08543**

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**JUL 25 2008**

In re Application of :
Gael MACE et al. :
Application No. 10/091,266 : DECISION ON PETITION
Filed: March 05, 2002 :
Attorney Docket No. **PF010020** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 12, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 13, 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, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of December 12, 2007 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 Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2161 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petition Exmainer
Office of Petitions

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JUN 27 2008

PTO/SB/64 (08-03)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional) PF010020

Customer No. 24498

First named inventor: Gael Mace

Application No.: 10/091,266 Art Unit: 2161

Filed: March 5, 2002 Examiner: Cindy Nguyen

Title: METHOD FOR MANAGING ISOCHRONOUS FILES IN A HAVI ENVIRONMENT

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 $ 1,540.00 (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 Response to Office Action (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.



This collection of information is required by 37 CFR 1.137. 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. 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.**

06/30/2008 HMARZI1 00000038 070832 10091266

01 FC:1453 1540.00 DA

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Approved for use 07/31/2006. 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.

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.**

June 27, 2008
Date

Signature

Paul P. Kiel
Typed or printed name

Telephone Number: (609) 734-6815

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 (571) 273-8300.

June 27, 2008
Date

Signature

Jill S. Garretson
Typed or printed name of person signing certificate

# RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10091266 Total Records Found: 11

Start Date: Any Date End Date: Any Date

| Accounting Date | Sequence Num. | Fee Type | Fee Code | Fee Amount | Mailroom Date | Payment Method |
|---|---|---|---|---|---|---|
| 06/30/2008 | 00000056 | 1 | 1453 | $1,540.00 | 06/27/2008 | DA 070832 |
| 09/20/2007 | 00000037 | 1 | 1252 | $450.00 | 09/20/2007 | DA 070832 |
| 02/06/2007 | 00000038 | 1 | 1251 | $120.00 | 02/05/2007 | DA 070832 |
| 02/06/2007 | 00000039 | 1 | 1801 | $790.00 | 02/05/2007 | DA 070832 |
| 01/18/2007 | 00000006 | 1 | 1203 | $360.00 | 04/04/2005 | DA 070832 |
| 01/24/2006 | 00000090 | 1 | 1801 | $790.00 | 01/23/2006 | DA 070832 |
| 01/24/2006 | 00000091 | 1 | 1252 | $450.00 | 01/23/2006 | DA 070832 |
| 04/05/2005 | 00000028 | 1 | 1251 | $120.00 | 04/04/2005 | DA 070832 |
| 04/05/2005 | 00000029 | 1 | 1806 | $180.00 | 04/04/2005 | DA 070832 |
| 03/18/2002 | 00000272 | 1 | 581 | $40.00 | 03/05/2002 | DA 070832 |
| 03/12/2002 | 00000077 | 1 | 101 | $740.00 | 03/05/2002 | DA 070832 |

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJr.:08-02
Paper 3

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GOODMAN & CHICK, PC
767 THIRD AVENUE
25TH FLOOR
NEW YORK NY 10017-2023

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AUG 0 2 2002

OFFICE OF PETITIONS

In re Application of
Miyata, et al.
Application No. 10/091,269
Filed: 5 March, 2002
Attorney Docket No. 02131/LH

: DECISION ON PETITION

This is a decision on the petition (styled "Petition to Accord Correspondence Filing Date of the Date the Correspondence Was Deposited with the USPS (37 C.F.R. §1.10(d)"),[1] filed on 28

[1] The regulations at 37 C.F.R. §1.10 provide:

**§1.10 Filing of papers and fees by "Express Mail."**

(a) Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See § 1.6(a).

(b) Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

(d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

March, 2002, and seeking for the above-identified application a filing date of 4 March, 2002, instead of the presently accorded filing date of 5 March, 2002.

The petition is **DISMISSED**.[2]

Your request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.10."

There will be no further reconsideration thereafter.

## BACKGROUND AND ANALYSIS

The record reflects that:

- notwithstanding a transmittal page certificate of Express Mail (US Postal Service (USPS) Express Mail No. EV044465440US) dated 4 March, 2002, the records of the USPS--copies of which have been place into the record and are provided herewith to Petitioner--clearly demonstrate that the application package was deposited with the USPS at 3:42 p.m. on 5 March, 2002;

- as a result Office accorded a filing date of 5 March, 2002, consistent with the provisions of 37 C.F.R. §1.10;

---

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question. (Emphasis supplied.)

[48 Fed. Reg. 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 Fed. Reg. 4285, Jan. 31, 1983, paras. (a) & (c), 49 Fed. Reg. 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a) - (c) revised and paras. (d) - (f) added, 61 Fed. Reg. 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

[2] Pursuant to Petitioner's authorization, the petition fee ($130.00) is charge to Deposit Account 06-1378.

- Petitioner encloses a copies of: (a) "Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post" (Service Statement), (b) Petitioner's office "Patent Office Express Mail Record," and (c) the transmittal letter dated 4 March, 2002;

- in the Service Statement the above-referenced Express Mail number is identified along with at least four (4) other Express Mail numbers, however, these latter numbers are not legible so it is impossible to track their deposit dates if at variance from the instant application;

- if, as Petitioner alleges, there are a pickup date and a signature on the above-described receipt, they are not legible in the materials supplied with the petition;

As of this writing, Petitioner has failed to make a satisfactory showing that the application was deposited with the USPS on 4 March, 2002, rather than on the presently accorded date of 5 March, 2002.

The renewed petition, if any, must be accompanied corroborating evidence sufficient to satisfy Petitioner's burden of proof.

The instant petition must be and hereby is **dismissed**.

Any future correspondence with regard to this matter under 37 C.F.R. §1.10 should be addressed as follows:

| | |
|---|---|
| By mail: | Assistant Commissioner for Patents<br>Box DAC<br>Washington, D.C. 20231 |
| By FAX: | (703) 308-6916<br>ATTN: Office of Petitions |
| By hand: | Crystal Plaza 4<br>Room 3-C23<br>2201 South Clark Place<br>Arlington, VA 22202 |

The application is being forwarded to Technology Center 2600 for further processing.

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

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

Encl: USPS Express Mail tracking record (3) pages

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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JJGJr.:09-02
Paper 5

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GOODMAN & CHICK, PC
767 THIRD AVENUE
25TH FLOOR
NEW YORK NY 10017-2023

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SEP 0 6 2002

OFFICE OF PETITIONS

In re Application of
Miyata, et al.
Application No. 10/091,269
Filed: 5 March, 2002
Attorney Docket No. 02131/LH

: DECISION ON PETITION

This is a decision on the supplemental petition (styled "Supplement to Petition Filed March 28, 2002," considered under 37 C.F.R. §1.10,[1] and seeking for the above-identified application a filing

[1] The regulations at 37 C.F.R. §1.10 provide:

**§1.10 Filing of papers and fees by "Express Mail."**

(a) Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See § 1.6(a).

(b) Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

(d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

date of 4 March, 2002, instead of the presently accorded filing date of 5 March, 2002.

The petition is **GRANTED**.

BACKGROUND AND ANALYSIS

The record reflects that:

- Petitioner encloses a copies of: (a) "Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post" (Service Statement), (b) Petitioner's office "Patent Office Express Mail Record" (Mail Record), and (c) the transmittal letter dated 4 March, 2002;
- in the Service Statement the above-referenced Express Mail number is identified along with at least four (4) other Express Mail numbers;
- Petitioner's US Postal Service (USPS) Express Mail Service Statement containing the record of Express Mail label No. EV044465440US is signed and dated 4 March, 2002, by the USPS worker;
- Petitioner's contemporaneous Mail Record reflects that the same item was prepared and dated for deposit with the USPS Express Mail pick-up service on 4 March, 2002;

therefore, the application is entitled to a filing date of 4 March, 2002, under the provisions of 37 C.F.R. §1.10.

As to the instant application, the Office of Initial Patent Examination is specifically instructed to:

---

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question. (Emphasis supplied.)

[48 Fed. Reg. 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 Fed. Reg. 4285, Jan. 31, 1983, paras. (a) & (c), 49 Fed. Reg. 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a) - (c) revised and paras. (d) - (f) added, 61 Fed. Reg. 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

- assign a filing date of 4 March, 2002, and
- issue a corrected filing receipt specifying the filing date as that of 4 March, 2002.

Therefore, this application file is being forwarded to Office of Initial Patent Examination for assignment of the filing date of 4 March, 2002, and issuance of a corrected Filing Receipt reflecting that filing date for Application No. 09/091,269.

The application file will then be forwarded for processing as necessary.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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AUG 21 2009

OFFICE OF PETITIONS

In re Application of :
Harper et al. :
Application No. 10/091,284 : ON PETITION
Filed: March 5, 2002 :
Attorney Docket No. 10660-070US(10279P1) :

This is a decision on the "Petition To Correct Declaration Under 37 CFR §1.63" filed on June 8, 2009.

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.

Petitioner seeks to correct the citizenship of the inventor John Douglas Morgan to reflect that he is Australian as opposed to "United" under 37 CFR 1.182. Petitioner contends that there is no statutory requirement that the oath include citizenship. Thus petitioner maintains that the previously submitted assignment, which states the correct citizenship of inventor Morgan meets the requirements of 35 USC §115. Petitioner acknowledges that MPEP §605.01 requires that a supplemental oath or declaration is required when the citizenship has not been provided. Petitioner states that a letter requesting that the inventor execute a substitute declaration was mailed. However, Federal Express was unable to deliver the letter because the address provided was incorrect. As such petitioner requests that the assignment be accepted to correct the citizenship.

## APPLICABLE RULES AND REGULATIONS

35 U.S.C. 25 Declaration in lieu of oath.
(a) The Director may by rule prescribe that any document to be filed in the Patent and Trademark Office and which is required by any law, rule, or other regulation to be under oath may be subscribed to by a written declaration in such form as the Director may prescribe, such declaration to be in lieu of the oath otherwise required.

35 U.S.C. 115 Oath of applicant.
The applicant shall make oath that he believes himself to be the original and first inventor

for which he solicits a patent; and shall state of what country he is a citizen.

§ 1.63 Oath or declaration.
(a) An oath or declaration filed under § 1.51(b)(2) as a part of a nonprovisional application must:
(1) Be executed, i.e., signed, in accordance with either § 1.66 or § 1.68. There is no minimum age for a person to be qualified to sign, but the person must be competent to sign, i.e., understand the document that the person is signing;
(2) Identify each inventor by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial;
(3) Identify the country of citizenship of each inventor; and
(4) State that the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.

Petitioner's argument has been considered but not been deemed persuasive. 35 USC 115 requires in an oath that each applicant state what country he is a citizen. 35 USC 25 allows for the Director by rule to prescribe that any document to be filed in the Office which is required by any law, rule or other regulation to be under oath may be subscribed to by a written declaration to be in lieu of the oath. The Director has prescribed in 37 CFR 1.63 that an oath or declaration must include the citizenship of an inventor. The assignment previously submitted does not meet the requirement that the citizenship be provided in the oath or declaration.

The manner in which the citizenship can be corrected is via the submission of an executed supplemental declaration. 37 CFR 1.67 requires in the supplemental oath or declaration substantially all the data called for in 37 CFR 1.63 for the original oath or declaration. Deficiencies or inaccuracies in an oath or declaration may be corrected by a supplemental oath or declaration. The supplemental oath or declaration must (1) identify the entire inventive entity, and (2) be signed by all the inventors when the correction relates to all the inventors or applicants (37 CFR 1.42, 1.43, or 1.47), or by only those inventor(s) or applicants (37 CFR 1.42, 1.43, or 1.47) to whom the corrections relates. See 37 CFR 1.67(a).

When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a). If there are no joint inventor(s), then the party with sufficient proprietary interest must sign the supplemental declaration on behalf of the nonsigning inventor. See MPEP § 409.03(b)

Proof that the non-signing inventor is unavailable or cannot be found similar to the proof required for a petition under 37 CFR 1.47 must be submitted with the petition under 37 CFR 1.183 (see MPEP § 409.03(d)). Petitioner must establish that inventor has refused or cannot be found. The evidence provided on petition fails to establish that inventor Morgan

cannot be located. The evidence failed to provide that any effort was made to locate the inventor once it was determined the supplemental declaration was mailed to the incorrect address.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

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

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110

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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MINNEAPOLIS MN 55440-1022

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In re Application of :
Harper et al. :
Application No. 10/091,284 : ON PETITION
Filed: March 5, 2002 :
Attorney Docket No. 10660-070US(10279P1) :

This is a decision on the renewed " Second Petition To Correct Declaration Under 37 CFR §1.63" filed on November 12, 2009.

The petition is **Dismissed as Moot**.

Petitioner sought to correct the citizenship of inventor John Douglas Morgan to reflect that he retains Australian citizenship as opposed to "United" under 37 CFR 1.182 without the submission of a supplemental declaration.

In light of the submission of the supplemental declaration by John Douglas Morgan, which corrects the citizenship, waiver of 37 CFR 1.63 or 1.67 is not required.

The submission of the executed declaration will be treated as being timely received.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being directed to art unit 1796 for further processing.

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

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:** _____

**DATE** : 2/22/2006

**TO SPE OF** : ART UNIT 1700 (1745)

**SUBJECT** : Request for Certificate of Correction on Patent No.: 6,878,487

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

Please complete this form and return with file, within 7 days to:
**Certificates of Correction Branch - PK 3-922**
Palm location **7580** - Tel. No. 305-8309

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

**Would a corrected patent be appropriate for new spec, abst, & drwg instead of C of C?**

*Ernest C. White, LIE305-8339*
**Certificates of Correction Branch**

**Thank You For Your Assistance**

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

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

**Comments:**

THE SPEC AND DRAWINGS OF 3/6/02 SHOULD BE USED, NOT THOSE OF 4/12/02, WHICH WERE TO THE RELATED PROVISIONAL

SPE

1745
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**MICHAEL A. SANZO**
**FITCH, EVEN, TABIN & FLANNERY**
**SUITE 401L**
**1801 K STREET, N.W.**
**WASHINGTON DC 20006-1201**

**COPY MAILED**

SEP 2 8 2005

**OFFICE OF PETITIONS**

In re Application of
Kevin Burke et al
Application No. 10/091,342
Filed: March 6, 2002
Attorney Docket No. 7601/80250

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition filed March 18, 2005, which is being treated as petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120, and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **Granted**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

**(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR §§ 1.78(a)(3) and 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, intermediate nonprovisional Application No. 09/531,267 was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/142,915, which was filed on July 9, 1999, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the above-noted, prior-filed nonprovisional applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

***The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.***

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

Any questions concerning this matter may be directed to 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 referred to Technology Center Art Unit 1652 for appropriate action on the amendment submitted March 18, 2005, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Karen Creasy

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

**ATTACHMENT** : Corrected Filing Receipt

# 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) |
|---|---|---|---|---|
| 6,643,246 | 2003-11-04 | 10/091,355 | 2002-03-06 | Q68751 |

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 | /Allison M. Tulino/ | Date (YYYY-MM-DD) | 2008-09-30 |
| Name | Allison M. Tulino | Registration Number | 48294 |

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. 6643246
Issue Date: November 4,2003
Application No. 10091355
Filed: March 6,2002
Attorney Docket No. Q68751

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

This is a decision on the electronic petition, filed September 30,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 30,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY 17 2004

| | | |
|---|---|---|
| In re Application of | : | |
| Robert B. Beelman | : | NOTICE OF WITHDRAWAL |
| Serial No. 10/091,367 | : | FROM ISSUE |
| Filed: March 05, 2002 | : | UNDER 37 CFR 1.313(b) |
| For: PROCESS FOR ANTIMICROBIAL TREAT- | : | |
| MENT OF FRESH PRODUCE, PARTICULARLY | : | |
| MUSHROOMS | : | |

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 Milton Cano (571) 272-1398.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

FOX ROTHSCHILD O'BRIEN & FRANKEL LLP
Princeton Pike Corporate Center
997 Lenox Drive, Building 3
Lawrenceville, NJ 08648

cc: Allowed Files—Pk3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Martin A. Farber
Suite 473
866 United Nations Plaza
New York, NY 10017

DEC 20 2004

In re Application of:
Moll, Winfried
Serial No.: 10/091,380
Filed: March 4, 2002
Attorney Docket No.: **2001P80039**

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 May 19, 2004, 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 T. C. Patel at (571) 272-2098.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

December 2004

Patrick C. Keane
Burns, Doane, Swecker & Mathis, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

DEC 21 2004

In re Application of:
Seong-Hwoon Kim et al.
Serial No.: 10/091,398
Filed: March 7, 2002
Attorney Docket No.: 017750-698

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment of the above-identified application under 37 C.F.R. § 1.181 filed on July, 15, 2004. There is no fee for this petition.

The petition is **GRANTED**.

The application was held abandoned for failure to file a proper response to the Office action mailed on August 12, 2003. A Notice of Abandonment was mailed on May 18, 2004.

Petitioner asserts that a response to the Office action was timely filed on December 12, 2003. To support this assertion, petitioner has submitted a copy of the response (a transmittal sheet, an amendment and a petition for a one month extension of time) and a copy of a stamped return postcard which properly identifies and acknowledges receipt of the response by the Patent and Trademark Office (PTO) on August 12, 2003. Although the transmittal sheet incorrectly listed the wrong Serial Number, the correct Serial Number was listed on both the amendment and the petition for extension of time.

Regardless of the above, a review of the application file indicates that the response has been received and matched with the correct application file.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed May 18, 2004 is hereby **VACATED** and the holding of abandonment is withdrawn. The examiner will be notified to prepare an Office action based upon the response.

PTO records indicate that the fee for the one month extension of time was associated with the Serial Number but the fees involved with the amendment ($86.00 for independent claims in excess of 3; $252.00 for claims in excess of 20) were associated with the wrong Serial Number

listed on the transmittal sheet. The correction will be made to associate the fees involved with the amendment with the correct Serial Number. Nevertheless, all the fees were charged to the correct Deposit Account Number.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

**EITAN PEARL LATZER & COHEN ZEDEK**
**10 ROCKEFELLER PLAZA**
**SUITE 1001**
**NEW YORK, NY 10020**

COPY MAILED

MAR 3 1 2003

OFFICE OF PETITIONS

In re Application of :
Shmuel Cabilly et al :
Application No. 10/091,430 : NOTICE
Filed: March 7, 2002 :
Attorney Docket No. P-3694-US :

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

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

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

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

This file is being forwarded to Technology Center AU 1753.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : November 1, 2006

Patent No. :6,794,614
Inventor :Masato TANIGUCHI; Manabu OKINAKA
Patent Issued :September 21, 2004
Docket No. :Q68696

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 errors pertaining to the claims of which applicant has referred reveals the Letters patent with respect to applicants request is 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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

CBN/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/22/07

TO SPE OF : ART UNIT 3742

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/091445** Patent No.: **6794614**

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

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

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

**Angela Green**
**Certificates of Correction Branch**
**703.308.9380 ext.** 123

**Thank You For Your Assistance**

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

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

**Comments:** _____

_____

_____

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_____

_____ 3742
**SPE** **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/22/07

TO SPE OF : ART UNIT 3742

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/091445** Patent No.: **6794614**

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

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

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

**Angela Green**
**Certificates of Correction Branch**
**703.308.9380 ext.** 123

**Thank You For Your Assistance**

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

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

**Comments:** _____

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_____

_____ 3742
**SPE** **Art Unit**

#7
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
www.uspto.gov

JUL 14 2003

McGinn & Gibb, PLLC
Suite 200
8321 Old Courthouse Road
Vienna, VA 22182-3817

MAILED

JUL 14 2003

OFFICE OF THE DIRECTOR
TC 3600

In re Application of
Kenichi Satou
Application No. 10/091,470
Filed: March 7, 2002
For: BUMPER STRUCTURE

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in response to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office (USPTO), on June 16, 2003.

The petition is **DISMISSED.**

A review of the file record reveals that an Office action was mailed to applicant on October 30, 2002. Since a response was not received before the expiration of the six month statutory period for reply, the application was held abandoned, although a Notice of abandonment has yet been mailed.

Applicant submits that the front cover of the file jacket indicates non-receipt of any Office action and provides copies of docket reports presumably to take advantage of the procedure outlined in 1156 O.G. 53 and MPEP 711.03(c) for withdrawing an abandonment in an application having a non-received Office correspondence.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of January 30, 2003. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993). The petitioner has failed to comply with requirements (1) and (2) indicated above.

Specifically, the petition fails to include a statement from the practitioner stating the Office communication was not received by the practitioner and a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

SNM/tpl: 7/11/03

#10
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

APR 30 2004

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

MAILED

APR 30 2004

OFFICE OF THE DIRECTOR
TC 3600

McGinn & Gibb, PLLC
Suite 200
8321 Old Courthouse Road
Vienna, VA 22182-3817

In re Application of
Kenichi Satou
Application No. 10/091,470
Filed: March 7, 2002
For: BUMPER STRUCTURE

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on the applicant's renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on August 28, 2003. The delay in treating this petition is sincerely regretted.

The petition is **GRANTED**.

A review of the file record reveals that an Office action was mailed to applicant on October 30, 2002. Since a response was not received before the expiration of the six month statutory period for reply, the application was held abandoned and a Notice of to that affect was mailed on July 28, 2003.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of January 30, 2003. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993).

Applicant's renewed petition submits a statement that the applicant did not receive the above-noted Office action. Applicant also attests to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record showing all actions due by the firm of McGinn & Gibb, PLLC at and around the due date of January 30, 2003 has been supplied.. This evidence is acceptable proof of non-receipt as provided by 1156 OG 53.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions withdraw the abandonment, return the application to pending status and to redate and remail the Office action of October 30, 2002 based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

Telephone inquiries relative to this decision should be directed to me at the number below.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/cps 4/28/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 28 2005

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JAN 28 2005

OFFICE OF THE DIRECTOR
TC 3600

January 13, 2005

McGinn & Gibb, PLLC
8321 Old Courthouse Road
Vienna, Virginia 22182-3817

| | | |
|---|---|---|
| In re Application of: | : | **DECISION ON PETITION** |
| Kenichi SATOU | : | **REGARDING REQUEST TO** |
| Application No. 10/091,470 | : | **WITHDRAW FINALITY** |
| Filed: March 7, 2002 | : | **UNDER 37 CFR 1.181** |

This is in response to the petition filed on November 23, 2004 under 37 CFR 1.181 requesting the withdrawal of the finality of the Office action mailed September 24, 2004 as being premature.

Applicant alleges that the Final rejection mailed September 24, 2004 was premature in accordance with the guidelines of MPEP 706.07(a) in that the amendments filed on August 17, 2004 were "not directed to the purpose of overcoming the rejection" and "did not affect the Examiner's prior art search". Applicant further alleges that "no claim amendments were necessary to overcome the Examiner's rejections and that the amendments were clearly not so intended".

A review of the record reveals that since the filing of the petition, an amendment after Final Office action was filed by Applicant on December 27, 2004 in response to an interview summary mailed December 20, 2004. Furthermore, a Notice of Allowance was mailed on January 7, 2005.

Therefore since the Examiner and Applicant agreed on allowable subject matter in the case, Applicant's arguments as to the premature finality are considered moot.

The petition is **DISMISSED as moot**.

Telephone inquiries should be directed to D. Glenn Dayoan, Supervisory Patent Examiner, at (703) 308-3102.

Robert Oberleitner, Director
Patent Technology Center 3600
(703) 308-1134

DGD/snm: 01/13/05
SM

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 7

Chadwick A. Jackson
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W.
Box IP
Washington, D.C. 20007

MAIL

AUG 0 1 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Dean Moses et al.
Application No. 10/091,486
Filed: March 7, 2002
For: METHOD AND SYSTEM FOR SHARING DIFFERENT WEB COMPONENTS BETWEEN DIFFERENT WEB SITES IN A PORTAL FRAMEWORK

**DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)**

This is a decision on the petition, filed April 18, 2002 and a supplemental statement, filed July 31, 2002, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): 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(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.

The combined submission meets 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 6

Chadwick A. Jackson
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W.
Box IP
Washington, D.C. 20007

**MAIL**

AUG 0 1 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Dean Moses et al. )
Application No. 10/091,513 )
Filed: March 7, 2002 )
For: METHOD AND SYSTEM FOR SHARING DIFFERENT WEB COMPONENTS BETWEEN DIFFERENT WEB SITES IN A PORTAL FRAMEWORK )

**DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)**

This is a decision on the petition, filed April 18, 2002 and a supplemental statement, filed July 31, 2002, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): 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(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.

The combined submission meets 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.

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

Paper No. 5

DIRECTOR STRATEGIC SYSTEMS PROGRAMS
ATTN: DARRELL E. HOLLIS, CODE SPLE-4
ROOM 10041, 287 SOMERS COURT N.W.
WASHINGTON, DC 20393-5446

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MAY 2 2 2003

OFFICE OF PETITIONS

In re Application of
Brett J. Hamilton
Application No. 10/091,529
Filed: March 7, 2002
Attorney Docket No. N.C. 83337

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 5, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed April 5, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 6, 2002.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

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

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---|---|---|---|---|
| 6591425 | 2003-07-15 | 10091541 | 2002-03-07 | |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

| NOT Small Entity | | | Small Entity | | |
|---|---|---|---|---|---|
| | Fee | Code | | Fee | Code |
| ○ | 3 ½ year | (1551) | ◉ | 3 ½ year | (2551) |
| ○ | 7 ½ year | (1552) | ○ | 7 ½ year | (2552) |
| ○ | 11 ½ year | (1553) | ○ | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◉ A sole patentee

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

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

○ The assignee of record of the entire interest

| Sole Patentee | | | |
|---|---|---|---|
| A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature. | | | |
| Signature | /Mary P. Zellers/ | Date (YYYY-MM-DD) | 2007-09-10 |
| Name | Mary P. Zellers | | |

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. 6591425
Issue Date: July 15,2003
Application No. 10091541
Filed: March 7,2002
Attorney Docket No.

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

This is a decision on the electronic petition, filed September 10,2007,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 10,2007. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

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APR 12 2007

OFFICE OF PETITIONS

In re Application of
Niemela
Application No. 10/091,602
Filed: March 7, 2002
Attorney Docket No. P 290731
T29064US/PYK/kop

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 25, 2007, to revive the above-identified application.

The petition is **GRANTED**.

**The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.**

This application became abandoned for failure to timely file a proper reply to the non-final Office action of June 23, 2006. On December 21, 2006, applicant obtained a three month extensions of time pursuant to the provisions of 37 CFR 1.136(a) and filed a RCE. However, the RCE was improper, as was explained in correspondence mailed on January 21, 2006. Accordingly, the date of abandonment of this application is December 24, 2006. A Notice of Abandonment was mailed on January 25, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2138 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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CYNTHIA B. ROTHSCHILD, ESQ.
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101-2400

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NOV 2 1 2005

**OFFICE OF PETITIONS**

In re Application of :
Adnan Mjalli, et al. :
Application No. 10/091,609 : ON PETITION
Filed: March 5, 2002 :
Attorney Docket No.: 41305/271622 :
:

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

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on September 13, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

The application is being referred to Technology Center AU 1626 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[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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KILPATRICK STOCKTON LLP - 41305
CHARLES CALKINS
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

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APR 20 2007

OFFICE OF PETITIONS

In re Patent No. 7,087,632 :
Issue Date: August 8, 2006 :
Application No. 10/091,609 : NOTICE
Filed: March 5, 2002 :
Attorney Docket No. 41305/271622 :

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) 272-3222.

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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JJGJR.: 09-07

Paper No: __

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**OFFICE OF PETITIONS**

BELL, BOYD & LLOYD, LLP
P.O. Box 1135
CHICAGO IL 60690

In re Application of :
Ozawa, et al. : DECISION
Application No.: 10/091,646 :
Filing Date: 5 March, 2002 :
Attorney Docket No. 113197-025 :

This is a decision on the petitions filed on 19 January and 24 April, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

## BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 20 September, 2006, with reply due under a non-extendable deadline on or before 20 December, 2006;

---

[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

- the application went abandoned by operation of law after midnight 20 December, 2006;

- on 19 January, 2007, Petitioner filed an initial petition requesting withdrawal of the holding of abandonment–not yet entered–based upon Petitioner's review of PAIR and obtaining from the Office records, *inter alia*, copies of papers that indicated that the 20 September, 2006, Notice had not been delivered and in fact had been returned to the Office as undeliverable–Petitioner made such an averment and attached copies of those documents (though he fails to make the averment as instructed by the Commentary in the Manual of Patent Examining Procedure, as discussed in detail below), and asks that the Office contact him regarding questions, though he fails to provide a telephone contact number (direct line) by which to do so;

- the Office mailed a Notice of Abandonment on 16 March,2007;

- on 24 April, 2007, Petitioner again filed a petition with, *inter alia*, an averment that he did not receive a copy of the Notice of Allowance/Allowability and Fees Due, and pointed to his filing in January–again he fails to provide the showing directed of him in the MPEP, but also he asks the Office to contact him without providing the telephone contact number for this purpose.

Notably, the availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner immediate and on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

**§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.**
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be

## STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

---

signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of—

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:
**35 U.S.C. §133 Time for prosecuting application.**
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6]

And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[9]

The commentary at MPEP §711.03(c) provides:

* * *

> **A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action**
>
> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application

---

[5] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[9] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> 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.
>
> * **
>
> 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). (Emphasis supplied.)
>
> * * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner has satisfied the showing as discussed above.

## CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, the 16 March, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 2800 for further processing, including the re-mailing of the Notice of Allowance/Allowability and Fees Due with a new period of reply, in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[10] The regulations at 37 C.F.R. §1.2 provide:

**§1.2 Business to be transacted in writing.**

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

FEB - 3 2005

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

MAILED

FEB - 3 2005

OFFICE OF THE DIRECTOR
TC 3600

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

In re application of
Brady R. Dow
Application No. 10/091,652 : DECISION ON REQUEST
Filed: March 5, 2002 : FOR WITHDRAWAL OF
For: SYSTEMS AND METHODS FOR : ATTORNEY
MAINTAINING CONSISTENCY IN
INTERPERSONAL COMMUNICATIONS
RELATED TO MARKETING

This is a decision on the request filed on September 14, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

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

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

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

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

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

The request to withdraw as attorney is not approved as moot because the attorney making the request does not now have, and apparently never has had, power of attorney in this application.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121
Facsimile No.: (703) 605-0586

RAR/dcg: 12/1/04

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

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NOV 1 8 2002

OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of :
Shally Saraf :
Application No. 10/091,693 : NOTICE
Filed: March 4, 2002 :
Attorney Docket No. 020048-001900US :

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

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

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

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

This file is being forwarded to Technology Center 2800.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

**COPY MAILED**

**MAY 21 2002**

**OFFICE OF PETITIONS**

In re Application of :
Ripley :
Application No. 10/091,698 : ON PETITION
Filed: March 5, 2002 :
Attorney Docket No. 100202181-1 :

This is a decision on the petition filed April 11, 2002, to accord the above-identified application a filing date of March 5, 2002, instead of March 7, 2002.

The petition is **granted**.

37 CFR 1.10(d) states:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of March 5, 2002.

A petition fee of $130 was charged to petitioner's deposit account upon receipt of the petition. However, a petition seeking relief under 37 CFR 1.10 is free. Therefore, the $130 fee will be credited back to petitioner's deposit account.

The file is now being forwarded to the Office of Initial Patent Examination for further processing with a filing date of March 5, 2002.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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MAY 07 2009

OFFICE OF PETITIONS

In re Application of
Brian N. Ripley
Application No. 10/091,698
Filed: March 5, 2002
Attorney Docket No. 100202181-1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed October 23, 2007, to revive the above-identified application. The delay in responding is sincerely regretted.

The petition is **granted**.

The present petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of James Hao appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The above application was held abandoned for failure to timely respond to the non-final Office action mailed March 7, 2007, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on October 9, 2007.

Petitioner asserts that a reply was timely submitted to the United States Patent and Trademark Office (USPTO). In support, petitioner provides a copy of a postcard receipt, which shows that an amendment was received in the USPTO on June 13, 2007.

A review of the record fails to show receipt of an amendment filed on June 13, 2007. However, petitioner supplied the Office with a facsimile copy of the amendment on October 4, 2007[1].

Additionally, it is not apparent whether the statement of unavoidable 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(a) was unavoidable. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unavoidable delay. However, in the event that petitioner has no knowledge that the delay was unavoidable, petitioner must make such an inquiry to ascertain that, in fact, the delay was unavoidable. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

[1]It is noted that the paper styled Transmittal Letter for Response/Amendment filed on October 4, 2007, mentions the filing of an amendment and contains a Certificate of Mailing dated for June 7, 2007.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of an amendment; (2) the petition fee of $510; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable. Therefore, the petition is **GRANTED**.

If Mr. Hao 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.

This application is being referred to Technology Center Art Unit 2185 for review of the amendment received on October 4, 2007.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

cc: James Hao
Murabito, Hao & Barnes
Two N Market Street
3rd Floor
San Jose, CA 95113

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, DC 20231
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Paper No. 4

SONNENSCHEIN NATH & ROSENTHAL
P.O. BOX 061080
WACKER DRIVE STATION
CHICAGO IL 60606-1080

MAIL

DEC 12 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Rajendra Patel et al :
Application No. 10/091,705 :
Filed: March 6, 2002 :
For: **METHOD AND SYSTEM FOR HIGH SPEED WIRELESS BROADCAST DATA TRANSMISSION AND RECEPTION** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on November 13, 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 of record associated with Customer No. 26263 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: Gregory B. Gulliver
1121 Chesapeake Blvd.
Grayslake, IL 60030

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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INTERNATIONAL BUSINESS MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of :
Chohsa, et al. :
Application No.: 10/091,718 : ON PETITION
Filed: March 6, 2002 :
Attorney Docket No: JP9200004191US1 :

This is in response to the petition under 37 CFR 1.137(b) filed January 9, 2007.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed June 15, 2006. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). No response was received within the allowed period, and the application became abandoned on September 16, 2006.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (2) above.

The petition fee did not accompany the instant petition. An authorization to charge deposit account 50-3669 was found, however; James E. Boice—who signed the authorization—is an authorized user of this deposit account according to USPTO records. The renewed petition must be accompanied by the petition fee or a proper authorization to charge a deposit account for the same.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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INTERNATIONAL BUSINESS
MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUCSON AZ 85744

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DEC 25 2007

**OFFICE OF PETITIONS**

In re Application of

Chohsa, et al.

Application No. 10/091,718

Filed: March 6, 2002

Attorney Docket No. JP200004191US1

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 27, 2007, to revive the above-identified application.

The renewed petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 15, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time pursuant to 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on September 16, 2006. A petition under 37 CFR 1.137(b) was first filed on January 9, 2007, and dismissed by a decision mailed September 28, 2007.

The amendment filed January 9, 2007, is noted.

The petition fee of $1,540.00 was received on November 27, 2007.

The application is being forwarded to Technology Center 2600, GAU 2625 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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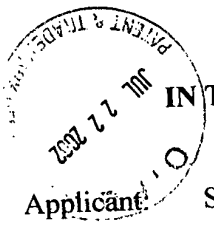
DUPLICATE



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Samy Ashkar

| | | | |
|---|---|---|---|
| Serial No.: | 10/091,724 | Group Art Unit: | Not yet assigned |
| Filed: | March 6, 2002 | Examiner: | Not yet assigned |

For: *METHODS TO SCREEN PEPTIDE LIBRARIES USING MINICELL DISPLAY*

**BOX MISSING PARTS**
Commissioner of Patents and Trademarks
Washington, D.C. 20231

**RESPONSE TO NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION**

Sir:

Responsive to the Notice to File Missing Parts of Nonprovisional Application, mailed April 10, 2002, a Petition for a two-month Extension of Time and the requisite fee being submitted herewith, applicant encloses the following for filing in the above-identified application:

1. Declaration for Patent Application executed by Samy Ashkar;

2. Power of Attorney or Authorization of Agent executed by Donald P. Lombardi on behalf of Children's Medical Center Corporation;

3. Statement Under 37 C.F.R. § 3.73(b) executed by Donald P. Lombardi on behalf of Children's Medical Center Corporation, with attached copy of the executed Assignment from Samy Ashkar to Children's Medical Center Corporation;

4. Fee Transmittal (in duplicate);

CMCC 820
078856/00020

5. Petition for Extension of Time Under 37 CFR §1.136(a); and

6. Check in the amount of $265.00 to cover (a) the $65.00 small entity surcharge for late filing of the Declaration for Patent Application, and (b) the $200.00 small entity fee for a two-month extension of time.

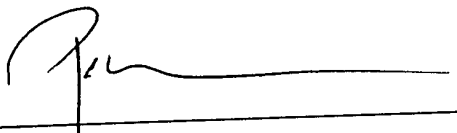
This application is entitled to claim small entity status pursuant to 37 C.F.R. § 1.27.

Applicant also encloses a copy of the Notice to File Missing Parts of Nonprovisional Application, mailed April 10, 2002.

The Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment in connection with this matter, to Deposit Account No. 50-1868.

A duplicate of this transmittal is enclosed to facilitate this process.

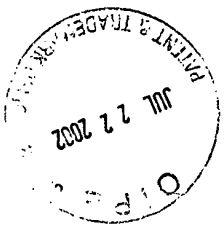
Respectfully submitted,



Patrea L. Pabst
Reg. No. 31,284

Date: July 16, 2002

HOLLAND & KNIGHT LLP
Suite 2000, One Atlantic Center
1201 West Peachtree Street, N.E.
Atlanta, Georgia 30309-3400
(404) 817-8473 (Telephone)
(404) 817-8588 (Fax)

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## CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8(a)

I hereby certify that this RESPONSE TO NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION, and any paper referred to as being attached or enclosed, are 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 BOX MISSING PARTS, Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Pam Turnbough

Date: July 16, 2002

ATL1 #534261 v1

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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|---|---|---|---|
| 10/091,724 | 03/06/2002 | Samy Ashkar | CMCC 820 |

**CONFIRMATION NO. 6946**

**FORMALITIES LETTER**

*OC000000007843761*

23579
PATREA L. PABST
HOLLAND & KNIGHT LLP
SUITE 2000, ONE ATLANTIC CENTER
1201 WEST PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3400

Date Mailed: 04/10/2002

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

### FILED UNDER 37 CFR 1.53(b)

***Filing Date Granted***

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 65.**

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

OIPE
JUL 22 2002
PATENT & TRADEMARK OFFICE

COPY OF PAPERS ORIGINALLY FILED

PTO/SB/17 (11-01)
Approved for use through 10/31/2002. 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.

# FEE TRANSMITTAL for FY 2002

*Patent fees are subject to annual revision.*

☒ Applicant claims small entity status. See 37 CFR 1.27

**TOTAL AMOUNT OF PAYMENT** ($) 265.00

| *Complete if Known* | |
|---|---|
| Application Number | 10/091,724 |
| Filing Date | March 6, 2002 |
| First Named Inventor | Samy Ashkar |
| Examiner Name | Not yet assigned |
| Group Art Unit | Not yet assigned |
| Attorney Docket No. | CMCC 820 |

## METHOD OF PAYMENT *(check all that apply)*

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account:

Deposit Account Number: 50-1868

Deposit Account Name: Holland & Knight LLP

**The Commissioner is authorized to:** *(check all that apply)*

☐ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) during the pendency of this application

☐ Charge fee(s) indicated below, **except for the filing fee** to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

| Large Entity Fee Code | Large Entity Fee ($) | Small Entity Fee Code | Small Entity Fee ($) | Fee Description | Fee Paid |
|---|---|---|---|---|---|
| 101 | 740 | 201 | 370 | Utility filing fee | |
| 106 | 330 | 206 | 165 | Design filing fee | |
| 107 | 510 | 207 | 255 | Plant filing fee | |
| 108 | 740 | 208 | 370 | Reissue filing fee | |
| 114 | 160 | 214 | 80 | Provisional filing fee | |

SUBTOTAL (1) ($) 0.00

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

| | | Extra Claims | Fee from below | Fee Paid |
|---|---|---|---|---|
| Total Claims | - 20 = | | X | = |
| Independent Claims | - 3 = | | X | = |
| Multiple Dependent | | | | = |

| Large Entity Fee Code | Large Entity Fee ($) | Small Entity Fee Code | Small Entity Fee ($) | Fee Description |
|---|---|---|---|---|
| 103 | 18 | 203 | 9 | Claims in excess of 20 |
| 102 | 84 | 202 | 42 | Independent claims in excess of 3 |
| 104 | 280 | 204 | 140 | Multiple dependent claim, if not paid |
| 109 | 84 | 209 | 42 | ** Reissue independent claims over original patent |
| 110 | 18 | 210 | 9 | ** Reissue claims in excess of 20 and over original patent |

SUBTOTAL (2) ($) 0.00

**or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

| Large Entity Fee Code | Large Entity Fee ($) | Small Entity Fee Code | Small Entity Fee ($) | Fee Description | Fee Paid |
|---|---|---|---|---|---|
| 105 | 130 | 205 | 65 | Surcharge - late filing fee or oath | 65.00 |
| 127 | 50 | 227 | 25 | Surcharge - late provisional filing fee or cover sheet | |
| 139 | 130 | 139 | 130 | Non-English specification | |
| 147 | 2,520 | 147 | 2,520 | For filing a request for *ex parte* reexamination | |
| 112 | 920* | 112 | 920* | Requesting publication of SIR prior to Examiner action | |
| 113 | 1,840* | 113 | 1,840* | Requesting publication of SIR after Examiner action | |
| 115 | 110 | 215 | 55 | Extension for reply within first month | 200.00 |
| 116 | 400 | 216 | 200 | Extension for reply within second month | |
| 117 | 920 | 217 | 460 | Extension for reply within third month | |
| 118 | 1,440 | 218 | 720 | Extension for reply within fourth month | |
| 128 | 1,960 | 228 | 980 | Extension for reply within fifth month | |
| 119 | 320 | 219 | 160 | Notice of Appeal | |
| 120 | 320 | 220 | 160 | Filing a brief in support of an appeal | |
| 121 | 280 | 221 | 140 | Request for oral hearing | |
| 138 | 1,510 | 138 | 1,510 | Petition to institute a public use proceeding | |
| 140 | 110 | 240 | 55 | Petition to revive - unavoidable | |
| 141 | 1,280 | 241 | 640 | Petition to revive - unintentional | |
| 142 | 1,280 | 242 | 640 | Utility issue fee (or reissue) | |
| 143 | 460 | 243 | 230 | Design issue fee | |
| 144 | 620 | 244 | 310 | Plant issue fee | |
| 122 | 130 | 122 | 130 | Petitions to the Commissioner | |
| 123 | 50 | 123 | 50 | Processing fee under 37 CFR 1.17(q) | |
| 126 | 180 | 126 | 180 | Submission of Information Disclosure Stmt | |
| 581 | 40 | 581 | 40 | Recording each patent assignment per property (times number of properties) | |
| 146 | 740 | 246 | 370 | Filing a submission after final rejection (37 CFR § 1.129(a)) | |
| 149 | 740 | 249 | 370 | For each additional invention to be examined (37 CFR § 1.129(b)) | |
| 179 | 740 | 279 | 370 | Request for Continued Examination (RCE) | |
| 169 | 900 | 169 | 900 | Request for expedited examination of a design application | |

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid SUBTOTAL (3) ($) 265.00

| SUBMITTED BY | | | | Complete *(if applicable)* | |
|---|---|---|---|---|---|
| Name (Print/Type) | Patrea L. Pabst, Esq. | Registration No. (Attorney/Agent) | 31,284 | Telephone | (404) 817-8473 |
| Signature | | | | Date | July 16, 2002 |

**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.**

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

*CMCC 820-078856/00020*

PN

OIPE JC#28 JUL 22 2002 PATENT & TRADEMARK OFFICE

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MPS

Please type a plus sign (+) inside this box → [+]

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# TRANSMITTAL FORM

*(to be used for all correspondence after initial filing)*

Total Number of Pages in This Submission

| | |
|---|---|
| **Application Number** | 10/091,724 |
| **Filing Date** | March 6, 2002 |
| **First Named Inventor** | Samy Ashkar |
| Group Art Unit | Not yet assigned |
| Examiner Name | Not yet assigned |
| Attorney Docket Number | CMCC 820 |

## ENCLOSURES *(check all that apply)*

- [x] Fee Transmittal Form
  - [x] Fee Attached
- [ ] Amendment / Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [x] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [x] Response to Missing Parts/ Incomplete Application
  - [x] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Assignment Papers *(for an Application)*
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
- [ ] After Allowance Communication to Group
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Other Enclosure(s) *(please identify below)*:

Executed Declaration for Patent Application; Power of Attorney with attached Statement Under 37 CFR 3.73(b); Return Postcard

Remarks

**Certificate of Mailing is to BOX MISSING PARTS**

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

| | |
|---|---|
| Firm or Individual name | Patrea L. Pabst — Holland & Knight LLP<br>Suite 2000, One Atlantic Center; 1201 West Peachtree Street, N.E.; Atlanta, GA 30309-3400 |
| Signature | |
| Date | July 16, 2002 |

## CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: July 16, 2002

| | | | |
|---|---|---|---|
| Typed or printed name | Pam Turnbough | Date | July 16, 2002 |
| Signature | Pam Turnbough | | |

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JUL 22 2002

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# PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)

Docket Number (Optional): CMCC 820

In re Application of: SAMY ASHKAR

Application Number: 10/091,724 — Filed: 03/06/2002

For: METHOD TO SCREEN PEPTIDE DISPLAY LIBRARIES USING MINICELL DISPLAY

Group Art Unit: Not yet assigned — Examiner: Not yet assigned

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 appropriate non-small-entity fee are as follows (check time period desired):

- ☐ One month (37 CFR 1.17(a)(1)) $_____
- ☒ Two months (37 CFR 1.17(a)(2)) $ 400.00
- ☐ Three months (37 CFR 1.17(a)(3)) $_____
- ☐ Four months (37 CFR 1.17(a)(4)) $_____
- ☐ Five months (37 CFR 1.17(a)(5)) $_____

☒ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee amount shown above is reduced by one-half, and the resulting fee is: $ 200.00.

☒ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Commissioner has already been authorized to charge fees in this application to a Deposit Account.

☒ The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-1868.
I have enclosed a duplicate copy of this sheet.

I am the ☐ assignee of record of the entire interest.

☐ applicant.

☐ attorney or agent of record.

☒ attorney or agent under 37 CFR 1.34(a).
Registration number if acting under 37 CFR 1.34(a) 31,284.

**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.**

July 16, 2002
Date

Signature

Patrea L. Pabst, Esq.
Typed or printed name

17 JUL.2002 09:47:31 00000052 10091724
02 FC:1616 200.00 OP

Burden Hour Statement: This form is estimated to take 0.1 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

Cynthia B. Rothschild
Kilpatrick Stockton LLP
1001 West Fourth Street
Winston-Salem, NC 27101

**COPY MAILED**

APR 14 2008

**OFFICE OF PETITIONS**

In re Application of :
Adnan M. M. Mjalli *et al.* :
Application No. 10/091,759 : DECISION ON PETITION
Filed: March 05, 2002 :
Attorney Docket No. 41305-271123 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 21 December 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to a non-final Office action mailed on 19 July 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) was obtained. Accordingly, the application became abandoned on 20 October 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response under 37 CFR 1.111 submitted on 22 January 2007, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay.

Since this application was abandoned for failure to timely reply to the non-final Office action of 19 July 2006 within the extendable six month period provided therefor, the Examiner had no procedural authority with respect to the abandoned application. See Lorenz v. Finkl, 333 F.2d 885, 891, 142 USPQ 26, 30 (CCPA 1964). Therefore, the examiner was without authority to act further in the case absent a grantable petition reviving the application. Nevertheless, in view of this decision on petition, the subsequent action taken by the examiner, i.e., mailing of a Notice of Allowability and Notice of Allowance and Issue Fee Due, has been ratified. In view thereof, it is unnecessary to either vacate or remail the Notices of 17 October 2007.

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 $510.00 extension of time fee submitted with the petition on 22 January 2007 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.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Allen C. Ho at (571) 272-6052.

David Bucei
Petitions Examiner
Office of Petitions

Cc:
Samuel B. Rollins
4170 Mendenhall Oaks Pkwy
High Point, NC 27265

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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KILPATRICK STOCKTON LLP - 41305
CHARLES CALKINS
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

**COPY MAILED**

**AUG 04 2008**

| | | |
|---|---|---|
| In re Application of | : | |
| MJALLI et al. | : | |
| Application No. 10/091,759 | : | DECISION ON APPLICATION |
| Filed: March 5, 2002 | : | FOR |
| Docket No. TTP 2001-21-US-A | : | PATENT TERM ADJUSTMENT |

This is a decision on the "Petition to Adjust Patent Term Adjustment (PTA) Indicated in Notice of Allowance," filed December 21, 2007. Applicants request that the patent term adjustment be set at 132 days less any period of reduction associated with the abandonment of the application.

The application for patent term adjustment is **GRANTED to the extent indicated herein.**

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **zero (0) days.** A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 17, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is zero (0) days. In response, applicants timely[1] filed the instant request for reconsideration of the patent term adjustment.

[1] Office Records indicate that the Issue Fee payment was received on January 15, 2008.

Applicants assert that the patent term should be adjusted by an additional 325 days for the Office's failure to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed. See 37 CFR 1.702(a)(2). Applicants' assertion is well taken.

Applicants filed a Request for Continued Examination on April 28, 2005. However, the Office did not respond with the mailing of the nonfinal Office action until July 19, 2006, four months and 325 days later. Thus, the Office should be assessed a delay of 325 days. See 37 CFR 1.703(a)(2).

Further, a review of the record reveals that applicants should be assessed an additional delay of 543 days for the abandonment of the application. On July 19, 2006, the Office mailed a nonfinal Office action, setting a three month shortened statutory period for reply. On January 22, 2007, applicants filed a reply, accompanied by a request for an extension of time within the third month (and fee); however, the reply was untimely. Accordingly, the application became abandoned on October 20, 2006. Applicants filed a petition to revive under 37 CFR 1.137(b) on December 21, 2007, which was granted in the decision mailed on April 14, 2008.

Pursuant to 37 CFR 1.704(c)(3):

> (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:
>
> > (3) Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of:
> >
> > > (i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or

> (ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed[.]

Therefore, applicants should have been assessed a delay of 543 days, beginning on the date of abandonment, October 20, 2006, and ending on the earlier date of mailing of the decision reviving the application, April 14, 2008.

In this instance, the periods of reduction under 37 CFR 1.704(c)(3) of 543 days and 37 CFR 1.704(b) of 95 days overlap. Specifically, the overlap of the periods under 37 CFR 1.704(c)(3) and 37 CFR 1.704(b) is October 20, 2006 to January 22, 2007. In consideration of the periods of overlap, the 95-day reduction is being removed and 543-day reduction is being entered.

Lastly, applicants assert that the period of adjustment should be reduced by 37 days pursuant to 37 CFR 1.704(c)(10) for the submission of an amendment under 37 CFR 1.312 after the mailing of the notice of allowance. Applicants' assertion that they should be assessed a delay under 37 CFR 1.704(c)(10) is premature and will not be addressed in the present petition under 37 CFR 1.705(b).

As stated in MPEP 2734,

> Since the Office is obligated to provide a determination of patent term adjustment under 35 U.S.C. 154(b) in the notice of allowance (i.e., before the actual patent issue date), the Office must project (or estimate) the actual patent issue date and base its patent term adjustment determination on that projection. Additionally, there are a number of papers which if submitted by an applicant after the mailing of the notice of allowance will result in a reduction of any patent term adjustment, and there may be Office delays occurring after mailing the notice of allowance resulting in an increase in the amount of patent term adjustment. Thus, 37 CFR 1.705(d) provides for a revision of the patent term adjustment when revision is necessitated by events occurring after the mailing of the notice of allowance. 37 CFR 1.705(d) specifically provides

that if there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. 37 CFR 1.705(d) also provides that if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of 37 CFR 1.705(b).

In view thereof, the patent term adjustment determination at the time of the mailing of the notice of allowance is **zero (0) days** (325 days of Office delay - 604 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fee is 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 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 Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of updated PAIR screen

PALM INTRANET

Day : Friday
Date: 8/1/2008
Time: 13:51:58

| PTA Calculations for Application: 10/091759 | | | |
|---|---|---|---|
| Application Filing Date: | 03/05/2002 | PTO Delay (PTO): | 0 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 156 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 0 |
| PTO Delay Adjustment: | -123 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 102 | 08/01/2008 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 543 | |
| 101 | 08/01/2008 | ADJUSTMENT OF PTA CALCULATION BY PTO | 95 | | |
| 100 | 08/01/2008 | ADJUSTMENT OF PTA CALCULATION BY PTO | 325 | | |
| 75 | 10/17/2007 | MAIL NOTICE OF ALLOWANCE | | | |
| 74 | 10/16/2007 | MAIL EXAMINER'S AMENDMENT | | | |
| 73 | 10/16/2007 | MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413) | | | |
| 72 | 09/19/2007 | EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413) | | | |
| 71 | 10/12/2007 | ISSUE REVISION COMPLETED | | | |
| 70 | 10/12/2007 | DOCUMENT VERIFICATION | | | |
| 69 | 10/12/2007 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 68 | 10/12/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 67 | 10/01/2007 | EXAMINER'S AMENDMENT COMMUNICATION | | | |
| 66 | 10/01/2007 | NOTICE OF ALLOWABILITY | | | |
| 65 | 08/09/2007 | MAIL NON-FINAL REJECTION | | | |
| 64 | 08/06/2007 | NON-FINAL REJECTION | | | |
| 63 | 05/23/2007 | DATE FORWARDED TO EXAMINER | | | |
| 62 | 05/03/2007 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 61 | 04/20/2007 | MAIL NON-FINAL REJECTION | | | |
| 60 | 04/16/2007 | NON-FINAL REJECTION | | | |
| 59 | 02/04/2007 | DATE FORWARDED TO EXAMINER | | | |
| 58 | 01/22/2007 | RESPONSE AFTER NON-FINAL ACTION | | 95 | 56 |
| 57 | 01/22/2007 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 56 | 07/19/2006 | MAIL NON-FINAL REJECTION | | | |
| 55 | 07/18/2006 | NON-FINAL REJECTION | | | |

| | | | | | |
|---|---|---|---|---|---|
| 54 | 04/28/2005 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 53 | 07/17/2006 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 52.7 | 04/28/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 52 | 04/28/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 51 | 05/02/2006 | DATE FORWARDED TO EXAMINER | | | |
| 50 | 04/28/2005 | RCE- AF PROCESSED | | | |
| 49 | 05/02/2006 | DATE FORWARDED TO EXAMINER | | | |
| 48 | 04/28/2005 | REQUEST FOR CONTINUED EXAMINATION (RCE) | | | |
| 47 | 05/02/2006 | DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA) | | | |
| 46 | 10/28/2005 | PUBS CASE REMAND TO TC | | | |
| 45 | 10/21/2005 | WORKFLOW - QUERY REQUEST - BEGIN | | | |
| 44 | 04/28/2005 | WORKFLOW - REQUEST FOR RCE - BEGIN | | | |
| 43 | 04/28/2005 | WORKFLOW - REQUEST FOR RCE - BEGIN | | | |
| 42 | 04/29/2005 | WORKFLOW - FILE SENT TO CONTRACTOR | | | |
| 41 | 03/29/2005 | EXPORT TO INITIAL DATA CAPTURE | | | |
| 40 | 03/22/2005 | MAIL NOTICE OF ALLOWANCE | | | |
| 39 | 03/21/2005 | ISSUE REVISION COMPLETED | | | |
| 38 | 03/21/2005 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 37 | 03/21/2005 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 36 | 03/21/2005 | NOTICE OF ALLOWABILITY | | | |
| 35 | 03/11/2005 | DATE FORWARDED TO EXAMINER | | | |
| 34 | 03/04/2005 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 33 | 01/25/2005 | MAIL NON-FINAL REJECTION | | | |
| 32 | 01/24/2005 | NON-FINAL REJECTION | | | |
| 31 | 07/30/2002 | REFERENCE CAPTURE ON IDS | | | |
| 29 | 10/29/2004 | DATE FORWARDED TO EXAMINER | | | |
| 28 | 10/22/2004 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 27 | 10/29/2004 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 26 | 10/22/2004 | WORKFLOW INCOMING AMENDMENT IFW | | | |
| 25 | 09/24/2004 | MAIL NON-FINAL REJECTION | | | |
| 24 | 09/20/2004 | NON-FINAL REJECTION | | | |
| 23 | 06/24/2004 | DATE FORWARDED TO EXAMINER | | | |
| | | | | | |

| | | | | | |
|---|---|---|---|---|---|
| 22 | 06/15/2004 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 21 | 06/15/2004 | WORKFLOW INCOMING AMENDMENT IFW | | | |
| 20 | 03/25/2004 | MAIL NON-FINAL REJECTION | | | |
| 19 | 03/22/2004 | NON-FINAL REJECTION | | | |
| 18 | 07/30/2002 | ISSUE REVISION COMPLETED | | | |
| 17.7 | 07/30/2002 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 17 | 07/30/2002 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 16 | 01/15/2004 | DATE FORWARDED TO EXAMINER | | | |
| 15 | 12/29/2003 | RESPONSE AFTER NON-FINAL ACTION | | 61 | 13 |
| 14 | 12/29/2003 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 13 | 07/29/2003 | MAIL NON-FINAL REJECTION | | | |
| 12 | 07/28/2003 | NON-FINAL REJECTION | | | |
| 11 | 05/21/2003 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 10 | 05/14/2003 | DATE FORWARDED TO EXAMINER | | | |
| 9 | 05/07/2003 | RESPONSE TO ELECTION / RESTRICTION FILED | | | |
| 8 | 04/10/2003 | MAIL RESTRICTION REQUIREMENT | | | |
| 7 | 04/09/2003 | REQUIREMENT FOR RESTRICTION / ELECTION | | | |
| 6 | 03/19/2003 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 5 | 04/18/2002 | APPLICATION DISPATCHED FROM OIPE | | | |
| 4 | 04/11/2002 | APPLICATION IS NOW COMPLETE | | | |
| 2 | 03/20/2002 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 03/05/2002 | INITIAL EXAM TEAM NN | | | |

**Search Another: Application#** [ ] Search

**EXPLANATION OF PTA CALCULATION**

**EXPLANATION OF PTE CALCULATION**

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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Paper No. 4

WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose, CA 95113

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MAY 2 1 2002

OFFICE OF PETITIONS

In re Application of :
McClain et al. :
Application No. 10/091,767 : ON PETITION
Filed: March 5, 2002 :
Attorney Docket No. F1101 :

This is a decision on the petition filed April 17, 2002, to accord the above-identified application a filing date of March 5, 2002, instead of March 7, 2002.

The petition is **granted**.

37 CFR 1.10(d) states:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of March 5, 2002.

A petition fee of $130 was charged to petitioner's deposit account upon receipt of the petition. However, a petition seeking relief under 37 CFR 1.10 is free. Therefore, the $130 fee will be credited back to petitioner's deposit account.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of March 5, 2002.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 4

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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**MAY 2 1 2002**

**OFFICE OF PETITIONS**

In re Application of :
Lavigne :
Application No. 10/091,768 : ON PETITION
Filed: March 5, 2002 :
Attorney Docket No. 100202410-1 :

This is a decision on the petition filed April 11, 2002, to accord the above-identified application a filing date of March 5, 2002, instead of March 7, 2002.

The petition is **granted**.

37 CFR 1.10(d) states:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of March 5, 2002.

A petition fee of $130 was charged to petitioner's deposit account upon receipt of the petition. However, a petition seeking relief under 37 CFR 1.10 is free. Therefore, the $130 fee will be credited back to petitioner's deposit account.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of March 5, 2002.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 3

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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MAY 21 2002

OFFICE OF PETITIONS

In re Application of :
Lavigne et al. :
Application No. 10/091,775 : ON PETITION
Filed: March 5, 2002 :
Attorney Docket No. 100202224-1 :

This is a decision on the petition filed April 17, 2002, to accord the above-identified application a filing date of March 5, 2002, instead of March 7, 2002.

The petition is **granted**.

37 CFR 1.10(d) states:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of March 5, 2002.

A petition fee of $130 was charged to petitioner's deposit account upon receipt of the petition. However, a petition seeking relief under 37 CFR 1.10 is free. Therefore, the $130 fee will be credited back to petitioner's deposit account.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of March 5, 2002.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

10/091,776

**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**DATE** : 7/8/07 **Paper No.:** _____

**TO SPE OF** : ART UNIT 2816

**SUBJECT** : Request for Certificate of Correction on Patent No.: 6900,089

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance**

ROCHAUN JOHNSON
**Certificates of Correction Branch**
***Tel. No. 703-308-9390 EXT 119***

**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:**

Kaplin's reference 3,995,235 was cited on the PTO-892 of paper no. 6, and had been referred to in the "Response to Arguments/Comments" section of the Office Action mailed Sep 2, 2003.

SPE

2816
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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CARSTENS & CAHOON, LLP
P.O. BOX 802334
DALLAS, TX 75380

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FEB 15 2008

OFFICE OF PETITIONS

In re Application of :
Qing Chen, et. al. :
Application No. 10/091,788 : ON PETITION
Filed: March 6, 2002 :
Attorney Docket No. AINNO.0104 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 23, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action mailed March 31, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted on January 23, 2007, 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). A courtesy copy of the Advisory Action is being mailed with this decision on petition.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Courtesy Copy of the Advisory Action

| **Advisory Action Before the Filing of an Appeal Brief** | **Application No.** 10/091,788 | **Applicant(s)** CHEN ET AL. | |
|---|---|---|---|
| | **Examiner** Vincent Q. Nguyen | **Art Unit** 2858 | |

***--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***

THE REPLY FILED 23 January 2008 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 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: 1-4.
   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: The claims are broad enough to read on the prior art.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Vincent Q. Nguyen/
Primary Examiner, Art Unit 2858

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Marc A. Sockol
SQUIRE, SANDERS & DEMPSEY L.L.P.
Two Renaissance Square
Suite 2700
40 North Central Avenue

In re Application of:
Victor Shiang Yang
Application No. 10/091,829
Filed: March 6, 2002
For: WIRELESS INFORMATION SYSTEMS AND METHODS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed November 15, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed November 15, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: Victor Yang
THUMB LOGIC, INC.
Taipei, Taiwan R.O.C.

# 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) |
|---|---|---|---|---|
| 6,717,669 | 2004-04-06 | 10/091,836 | 2002-03-06 | |

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 | /jrr/ | Date (YYYY-MM-DD) | 2008-05-06 |
| Name | John R. Ross, III | Registration Number | 43060 |

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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Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6717669
Issue Date: April 6,2004
Application No. 10091836
Filed: March 6,2002
Attorney Docket No. Y02-007

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 6,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 6,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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Baker & Botts LLP
2001 Ross Avenue
Suite 600
Dallas, TX 75201-2980

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JUN 20 2007

OFFICE OF PETITIONS

In re Application of
Alberson et al.
Application No. 10/091,838
Filed: March 6, 2002

: DECISION DISMISSING PTA

This letter is in response to APPLICANTS' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 1.705(b)" timely[1] filed on December 6, 2006 requesting that the Office adust the PTA determination at the time of the notice of allowance from a determination of Zero (0) days to days to a determination of 525 days.

The request submitted by appellants is **Dismissed.**

Applicants assert that they are entitled to a determination of 525 days at the time of the mailing of the notice of allowance. Applicants assert that the Office delayed 13 days under 37 CFR 1.702(a)(1). Applicants also agree that the Office delayed by a period of six hundred and 664 days for withdrawing the application from issue.[2] Applicants assert that they delayed by a period of 51 days under 37 CFR 1.704)(b) for the submission of the responses filed on March 23, 2004 and April 15, 2003 and 101 days under 37 CFR 1.704(c)(8) with the filing of the IDS on July 25, 2003.

Applicants' arguments as to the delay for withdrawing the application from issue are not deemed persuasive. The Office does not see find any statutory relief under 35 U.S.C. 154 or any regulatory relief under 37 CFR 1.702-1.703 that provide additional patent term for the Office's withdrawal from issuance in this application. The Office notes that applicants do not qualify for any additional time under 37 CFR 1.702(c) and 1.703(c)(1)-(2) because there was no interference declared nor was the application suspended due to an interference under 37 CFR 135(a) not involving the application.

The Office notes that this determination does not include any Office delays pursuant to 37 CFR 1.702(a)(4) or 1.702(b). Moreover, this determination does not include any reductions to patent term adjustment under 37 CFR 1.704(c)(10). These determinations will be included in the final PTA determination that is mailed to applicants in the Issue notification letter and displayed in PAIR.

---

[1]Issue fee was paid on December 6, 2006,

[2]The Office is unsure whether applicants assert that the withdrawal from issue or the suspension due to an interference proceeding is the basis for the additional patent term adjustment.

The Office has assessed the $200.00 fee. No additional fees are required in determining this application for PTA.

This applications is being forwarded to the Office of Patent Publication for a prompt issuance of the patent.

Any questions related to this decision can be addressed to Kery Fries at 571-272-7757.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

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JUN 2 0 2002

OFFICE OF PETITIONS

In re Application of :
Bruce E. Lavigne : DECISION GRANTING
Application No. 10/091,875 : PETITION
Filed: March 5, 2002 :
Attorney Docket No. 100202223-1 :

This is a decision on the paper styled "PETITION TO SECURE FILING DATE AS OF MAILING DATE VIA EXPRESS MAIL" filed May 8, 2002, which is properly treated as a petition under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of March 5, 2002, rather than the presently accorded filing date of March 7, 2002.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on March 5, 2002, pursuant to the requirements of 37 CFR 1.10. While the Express Mail label no. EV069670115US shows a handwritten "date-in" of April 5, 2002, it also includes an official USPS notation in the form of a "San Jose, CA USPS" stamp dated March 5, 2002. It is noted that the same Express Mail receipt number appears on the original transmittal letter and includes a certificate of mailing under 37 CFR 1.10 dated March 5, 2002.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on March 5, 2002.

The petition is granted. The $130.00 petition fee is being credited to counsel's deposit account.

The application is being returned to Initial Patent Examination Division for correction of the filing date to March 5, 2002.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. ____

TYCO ELECTRONICS CORPORATION
SUITE 450
4550 NEW LINDEN HILL ROAD
WILMINGTON, DE 19808-2952

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AUG 19 2003

OFFICE OF PETITIONS

In re Application of :
John R. Shuey et al :
Application No. 10/091,898 : DECISION GRANTING PETITION
Filed: March 6, 2002 : UNDER 37 CFR 313(c)(2)
Attorney Docket No. 12903US01 :

This is a decision on the petition, filed August 18, 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 30, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2833 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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VALUE
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MAR -3 2004

Paper No. 6

In re Application of
Donald E. Weder
Application No. 10/091,901
Filed: March 4, 2002
Attorney Docket No. 8403.519

DECISION ON PETITION

This is a decision on the petition filed on January 14, 2004 by which petitioner requests withdrawal of the examiner's holding that this application stands abandoned for failure to file a reply to the Office letter dated May 21, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required. A refund of the $130.00 petition fee tendered with the petition will be credited to Deposit Account No. 04-1700.

The petition is granted.

Petitioner alleges that this application is not abandoned because a timely reply to the Office letter in question was in fact filed. Petitioner has supported this allegation by submitting a copy of the reply, a copy of a petition for a three month extension of time with an authorization to charge the extension of time fee, and a copy of a filing receipt for these papers that shows that they were received in the Office on November 12, 2003, within the period of time set by the Office letter in question as extended. Based upon this showing, it is clear that this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner to:

1. Refund the $130.00 petition fee to Deposit Account No. 04-1700; and

2. Enter the change of correspondence address that is attached to the petition so that the correspondence address of record agrees exactly with the address at the bottom of this Decision.

Thereafter, the application will be forwarded to the examiner for action on the reply filed on November 12, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

02 FC:1460 130.00 CR 00000026 041700 10031981

Dunlap, Codding & Rogers, P.C.
P.O. Box 16370
Oklahoma City, OK 73113

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JOSEPH SWAN, A PROFESSIONAL CORPORATION
1334 PARKVIEW AVENUE, SUITE 100
MANHATTAN BEACH, CA 90266

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MAY 09 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| William E. Elswick et al | : | |
| Application No. 10/091,908 | : | DECISION GRANTING PETITION |
| Filed: March 5, 2002 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 30788-23 | : | |

This is a decision on the petition, filed May 7, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on April 10, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\May10\091908.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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Jennifer H. Hammond
The Eclipse Group
10453 Raintree Lane
Northridge, CA 91326

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AUG 15 2005

**OFFICE OF PETITIONS**

In re Application of

Slabich and Lo

Application No. 10/091,909

Filed: March 5, 2002

Attorney Docket No. 50047590-0045

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 27, 2005, 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 September 22, 2004, which set a shortened statutory period for reply of three months from its mailing date. The application became abandoned on March 23, 2005. A Notice of Abandonment was mailed on April 26, 2005.

The Request for Continued Examination and amendment filed July 27, 2005, are noted and made of record.

The application is being forwarded to Technology Center 3600, GAU 3677 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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Paper No. 12

**EDWARD W. BULCHIS, ESQ.**
**DORSEY & WHITNEY LLP**
**1420 FIFTH AVENUE, SUITE 3400**
**SEATTLE, WA 98101**

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SEP 2 2 2003

OFFICE OF PETITIONS

In re Application of
James Jago et al
Application No. 10/091,952
Filed: March 5, 2002
Attorney Docket No. 501094.01

DECISION GRANTING PETITION
UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed September 16, 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 12, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 3737 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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MICHELIN NORTH AMERICA, INC.
515 MICHELIN ROAD
P.O. BOX 2026
GREENVILLE, SC 29602

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JUL 13 2006

OFFICE OF PETITIONS

In re Application of :
Terry Martin :
Application No. 10/091,974 : ON PETITION
Filed: March 6, 2002 :
Attorney Docket No. P50-0074 :

This is a decision on the petition under 37 CFR 1.181, filed August 15, 2003 and January 7, 2005. The petition was recently forwarded to this office for consideration.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and publication fee, if applicable, on or before July 7, 2003. Accordingly, this application became abandoned on July 8, 2003. A Notice of Abandonment was mailed on August 7, 2003.

Petitioner asserts the Office communication was not received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

The required statements and docket records have been submitted and considered.

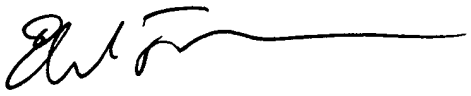
In view thereof, the Notice of Abandonment is hereby vacated, and the holding of abandonment is withdrawn. A new Notice of Allowance and Fee(s) Due will be mailed and the period for reply will be re-started.

The petition under § 1.181 is GRANTED.

No fee is required on petition under § 1.181.

Technology Center AU 2855 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff for mailing of a new Notice of Allowance and Fee(s) Due, as well as, for re-mailing of the Notice of Allowability. The three (3) month nonextendable time period for responding to the Notices, including paying the Issue Fee, will be set to run from the mailing date of the new Notices.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.



Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OPPEDAHL AND LARSON LLP
PO BOX 5068
DILLON, CO 80435-5068

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JUN 16 2005

**OFFICE OF PETITIONS**

ON PETITION

In re Application of :
Aedan Diarmuid Cailean Coffey et al :
Application No. 10/091,978 :
Filed: March 5, 2002 :
Attorney Docket No. ERLG.P-033

This is a decision on the petition, filed June 14, 2005 under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

**Petitioner is advised that the issue fee paid on April 1, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2182 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No.

BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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SEP 13 2004

**OFFICE OF PETITIONS**

ON PETITION

In re Patent No. 6,750,181 :
Issue Date: June 15, 2004 :
Application No. 10/092,041 :
Filed: March 6, 2002 :
Attorney Docket No. :
A35016PCTUSA;070337.0305 :

This is a decision on the petition filed May 27, 2004, to waive the rules and accept the correction of the assignee on the front page of the above-identified patent.

The petition is granted.

The file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-8859.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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INTELLECTUAL PROPERTY DEPARTMENT
3400 W. PLANO PARKWAY, MS LEGL2
PLANO TX 75075

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JUL 06 2007

OFFICE OF PETITIONS

In re Application of :
Stefan Keller-Tuberg :
Application No. 10/092,061 : DECISION ON PETITION
Filed: March 5, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 135907 :

This is a decision on the petition, filed September 25, 2006, 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 29, 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. This application published on January 11, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

The issue and publication fees were received on December 8, 2006. Accordingly, this application is being referred to Publishing Division for further processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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MAIL

Paper No. 5

APR 15 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Stephen P. Maginas
3404 25th Street
Rock Island IL 61201

In re Application of
Stephen Paul Maginas
Application No. 10/092,074
Filed: March 6, 2002
For: **DEVICE AND METHOD FOR REPETITIVE COMMUNICATION OF MESSAGES**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition to make special filed March 6, 2002 pursuant to 37 C.F.R. §102(c) and M.P.E.P. § 708.02(VI): Energy.

A grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section VI, must be accompanied by a showing that the application is for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances etc. Such petitions should be accompanied by statements under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention materially contributes to category (A) or (B) set forth above.

The petitioner has met 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.

It is noted that the application has already been reviewed and that there is an outstanding Office action mailed January 16, 2004 (paper No. 4). The application file is being forwarded to TC2600's central files to await a response to the outstanding Office action.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703 ) 305-4778

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FEB 27 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Stephen P. Maginas
3404 25th Street
Rock Island IL 61201

In re Application of:
Stephen Paul Maginas
Application Serial No.: 10/092,074
Filed: March 6, 2002
For: **DEVICE AND METHOD FOR REPETITIVE COMMUNICATION OF MESSAGES**

DECISION
ON PETITION

This is a decision on the petition to withdraw the final action as premature, filed December 8, 2005, pursuant to 37 CFR § 1.181.

Petitioner alleges that the examiner erred in holding the Office action mailed September 2, 2005 final and requests withdrawal of finality of the Office action. It has been contended by the petitioner that words added to the new claims find support in the specification and claims originally filed, no new matter was included, the prior art used was not in an IDS provided by applicants or supplied by the examiner, that the majority of the outstanding Office action addressed issues initially developed and the examiner failed to present the newly cited art in the first Office action.

MPEP §706.07(a) [R-1] Final Rejection, When Proper on Second Action, states in part:

> Due to the change in practice as affecting final rejections, older decisions on questions of prematureness of final rejection or admission of subsequent amendments do not necessarily reflect present practice.
>
> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Applicant admits, and the file record confirms that the originally presented claims 1-20 were cancelled in applicant's response and that new claims 21-31 were presented for examination with claims 21 and 26 being the only independent claims. Therefore, the issue to be addressed in determining the appropriateness of the finality of the September 24, 2005 Office action, is whether or not applicant's response necessitated the examiner's new ground of rejection.

Applicant admits that the amendment to claim 26, "following the word 'whereby', indicated a function well-described in Applicant's specification". Given that applicant has added descriptive language from their specification which was not in an originally presented claim, then applicant has altered the scope of originally presented claim 7.

Regarding applicant's comments with respect to new independent claim 21, applicant is correct that the language of claim 21 incorporates language from canceled claims 1 and 5. However, upon inspection, canceled claim 5 did not depend directly from cancelled claim 1. Rather canceled claim 5 indirectly depended from claim 1 via claims 2, 3, and 4. In other words, the limitations of cancelled claim 5 included all of the limitations in cancelled claims 1, 2, 3 4 and 5. Therefore, applicant's presentation of new claim 21 which only includes the limitations from cancelled claims 1 and 5, has altered the scope of previous claim 5 and therefore the claim does not have the same meets and bounds as previously presented.

It is apparent that applicant has cancelled the previously presented claims 1-20 and that newly presented independent claims 21 and 26 have been altered in scope.

Therefore, applicant's amendment necessitated the examiner's new ground of rejection and in accordance with MPEP §706.07(a), the next action was appropriately made final based upon the new grounds of rejection.

Accordingly, the petition to withdraw finality is **DENIED**.

The application file will be forwarded to the examiner for consideration of applicant's amendment after final submitted simultaneously with the subject petition.

Mark Powell, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

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JUL 13 2005

OFFICE OF PETITIONS

In re Application of
Robert S. Robinson
Application No. 10/092,100
Filed: March 6, 2002
Attorney Docket Number: ROBI-22US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 27, 2005, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed November 16, 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 February 17, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner files the instant petition under 37 CFR 1.137(b). [1]

The petition fee in the amount of $750.00 has been debited from deposit account no. 23-3000 per the authorization found in the petition.

This application is being forwarded to Technology Center 3754 for appropriate action on the amendment filed June 27, 2005.

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 an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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OFFICE OF PETITIONS

In re Application of
Youngseok Lee et al.
Application No. 10/092,103
Filed: March 6, 2002
Attorney Docket No.: 5895P003

ON PETITION

This is a decision on the petition filed October 24, 2006. The petition is titled "Petition And Response to Notice of Abandonment" but will be treated under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned on September 7, 2006, for failure to timely submit the issue fee, as required by the Notice of Allowance and Issue Fee Due mailed on June 6, 2006. A three (3) month period for reply was set. Accordingly, a Notice of Abandonment was mailed on October 9, 2006.

Petitioner asserts that the issue fee transmittal and a check in the amount of $1,030.00 was mailed on August 18, 2006.

In support, petitioner has submitted, *inter alia*, a copy of the issue fee transmittal form with the certificate of mail dated August 18, 2006 and a copy of the check purportedly mailed August 18, 2006.

A search of the application file and the USPTO records does not reveal receipt of the issue fee transmittal but, the petition complies with the requirements set forth in 37 CFR 1.8(b).

Accordingly, the Notice of Abandonment mailed on October 9, 2006, is hereby withdrawn. No petition fee is necessary and none has been charged. However, since petitioner has not presented any evidence that the issue fee, publication fee and fee for 10 advance copies was applied, and since petitioner has not submitted additional funds to cover those items, as authorized on the issue fee transmittal, petitioner's deposit account no. 02-2666 has been charged in the amount of $1,030.00.

This matter will be referred 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
Senior Petitions Attorney
Office of Petitions

Copied from 10093103 on 12/11/2006

**SPE RESPONSE FOR CERTIFICATE OF CORRECTION** 10/092105

**DATE** : 2-21-06 **Paper No.:** _____

**TO SPE OF** : ART UNIT 2453

**SUBJECT** : Request for Certificate of Correction on Patent No.: 6925519B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance**

ROCHAUN JOHNSON
**Certificates of Correction Branch**
***Tel. No. 703-308-9390 EXT 119***

**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:**

HOA T. NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE 4/11/06

2627
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 05

JAMES J. RALABATE
5792 MAIN STREET
WILLIAMSVILLE, NY 14221

AUG 1 2003

In re Application of:
Adams, *et al.*
Application No. 10/092,133
Filed: March 06, 2002
Attorney Docket No.: X0201A

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed March 06, 2002, and supplemented via facsimile transmission, on July 29, 2003, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P., Section 708.02, Item VIII, must be accompanied by (a) the fee set forth in 37 C.F.R. § 1.17(I), (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, professional searcher, etc., and a listing of the field of search by class and subclass, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over these references.

The petition fee will be charged to applicant's deposit account no. 18-0080.

The petition contains items (a)-(e) in accordance with M.P.E.P., Section 708.02, Item VIII.

Accordingly, the petition is granted.

The application is being forwarded to the examiner for examination under the accelerated examination procedure.

If the examiner determines that restriction is necessary, he/she will follow the established

telephone practice to resolve the restriction. If applicant elects with traverse the application will be forwarded to the Special Programs Examination unit to vacate this decision, and the application will be taken up by the examiner for action in its regular turn.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that she/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. Section 1309.

The petition is granted to the extent indicated.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**PATENT DEPARTMENT (51851)**
**KILPATRICK STOCKTON LLP**
**1001 WEST FOURTH STREET**
**WINSTON-SALEM NC 27101**

MAILED

JUL 01 2010

OFFICE OF PETITIONS

In re Application of :
Evan F. Wies et al. :
Application No. 10/092,158 : DECISION ON PETITION
Filed: March 05, 2002 :
Attorney Docket No. **IMM062C** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 11, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 30, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 01, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the response to the non-final office action of March 30, 2009 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2442 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
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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GATEWAY, INC.
ATTN: Patent Attorney
610 GATEWAY DRIVE MAIL DROP Y-04
N. SIOUX CITY SD 57049

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Frank Liebenow | : | DECISION ON PETITION |
| Application No. 10/092,171 | : | UNDER 37 CFR 1.137(b) |
| Filed: March 6, 2002 | : | |
| Attorney Docket No. P1854US00 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on August 10, 2005 for failure to pay the issue fee and the publication fee as required by the Notice of Allowance and Fee(s) Due, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on October 25, 2005.

The $1,400.00 issue fee, $300.00 publication fee, and the $1,500.00 petition fee will be charged to Deposit Account No. 50-0439 as authorized.

This matter is being referred to the Office of Patent Publication.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200. Telephone inquiries 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
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON. MA 02110

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OFFICE OF PETITIONS

In re Application of
Bajgar et al.
Application No. 10/092,177
Filed: March 6, 2002
Attorney Docket No. IME-037.01 (04156-3701)
Title of Invention: DRUG ELUTING ENCAPSULATED STENT

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed on September 17, 2003, to change the name of the co-inventor for the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are 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.

Pursuant to MPEP 605.04(c) to effectuate a name change of an inventor petitioner must submit an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order must be provided. Although petitioner has provided a declaration which states the name change occurred by court order, the declarant has failed to sign the declaration with both names. It is not sufficient that both name have been typed written. Inventor Bajgar/Bergen must sign the declaration with both her former name and her current name.

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address

Further correspondence with respect to this matter should be addressed as follows:

| | |
|---|---|
| By mail: | Mail Stop Petition<br>Commissioner for Patents<br>P.O. Box 1450<br>Alexandria, VA 22313-1450 |
| By facsimile: | (703) 308-6916 (until December 1, 2003)<br>(703) 872-9306 |
| By hand: | Office of Petitions<br>2201 South Clark Place<br>Crystal Plaza 4, Suite 3C23<br>Arlington, VA 22202 |
| By delivery service:<br>(FedEx, UPS, DHL, etc.) | U.S. Patent and Trademark Office<br>2011 South Clark Place<br>Customer Window, Mail Stop Petition<br>Crystal Plaza Two, Lobby, Room 1B03<br>Arlington, VA 22202 |

Telephone inquiries concerning this matter may be directed to the undersigned at 703.306.0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Donald W. Muirhead
Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, MA 02109

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. 8

FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

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**OFFICE OF PETITIONS**

ON PETITION

In re Application of
Bergen et al.
Application No. 10/092,177
Filed: March 6, 2002
Attorney Docket No. IME-037.01 (04156-3701)
Title of Invention: DRUG ELUTING ENCAPSULATED STENT

This is a decision on the renewed petition under 37 CFR 1.182, filed on November 21, 2003, to change the name of the co-inventor for the above-identified application.

The petition is **GRANTED**.

The name of the co-inventor's name will be changed from "Clara Bajgar" to **--Lee C. Bergen--**.

The file is being forwarded to the Office of Initial Patent Examination for further processing including the name change.

Telephone inquiries concerning this matter may be directed to the undersigned at 703.306.0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Donald Muirhead
Choate, Hall & Stewart
Exchange Place, 53 State Street
Boston, MA 02109-2804

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

JAMES E. HARRIS
MARGER JOHNSON & MCCOLLOM
1030 SW MORRISON STREET
PORTLAND, OR 97205

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JUL 1 1 2002

OFFICE OF PETITIONS

In re Application of
Robert Y. Greenberg
Application No. 10/092,180
Filed: March 6, 2002
Attorney Docket No. 7293-21

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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AUG 0 9 2004

OFFICE OF PETITIONS

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

In re Application of :
Raymond J. Beffa :
Application No. 10/092,185 : ON PETITION
Filed: March 6, 2002 :
Attorney Docket No. 3037.10US (95-1074.10) :

This is a decision on the petition, filed August 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 26, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 3653 for processing of 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

[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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#22

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

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OFFICE OF PETITIONS

In re Application of :
Raymond J. Beffa :
Application No. 10/092,185 : ON PETITION
Filed: March 6, 2002 :
Attorney Docket No. 3037.10US (95-1074.10) :

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 November 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

After receipt of the file in the Office of petitions, the application file will be forwarded to Technology Center AU 3653 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

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Dowell & Dowell, P.C.
Suite 309
1215 Jefferson Davis Highway
Arlington VA 22202

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JUN 0 2 2003

OFFICE OF PETITIONS

Applicant: Akiyoshi et al.
Appl. No.: 10/092,205
Filing Date: March 7, 2002
Title: IMAGE CODING METHOD AND APPARATUS AND IMAGE DECODING METHOD AND APPARATUS
Attorney Docket No.: 13925
Pub. No.: US 2002/017289 A1
Pub. Date: November 21, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), which was received via facsimile transmission on May 29, 2003, for the above-identified application, which is a copy of the request filed on January 21, 2003.

The request is granted.

The corrected patent application publication will be published in due course.

The application is being forwarded to the Office of PreGrant Publication (PG-PUB) in Crystal Park 3-905 for further processing.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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STEVEN A. SHAW
NOKIA, INC.
6000 CONNECTION DRIVE
MD 1-4-755
IRVING, TX 75039

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OFFICE OF PETITIONS

In re Application of :
Erkki Tanskanen :
Application No. 10/092,209 : DECISION ON PETITION
Filed: March 6, 2002 :
Attorney Docket No. NC28050-D2 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 16, 2004, 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 January 28, 2004, 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 March 29, 2004.

**The Notice of Appeal, filed August 3, 2004, 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.**

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

The application file is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-9282.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:

Robert H. Kelly
Scheef & Stone, LLP
5956 Sherry Lane, Suite 1400
Dallas, TX 75225

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 6

JOSEPH A. KOLASCH
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

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FEB 2 7 2003

OFFICE OF PETITIONS

In re Application of
Giorgio Trani et al
Application No. 10/092,260
Filed: March 7, 2002
Attorney Docket No. 0695-0118P

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 1700.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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JUN - 2 2003

**MAILED**

JUN - 2 2003

OFFICE OF THE DIRECTOR
TC 3600

Pennie and Edmonds
1155 Avenue of the Americas
New York, NY 10036

Paper No. 6

In re application of
Bruce Bent et al.
Application No. 10/092,279
Filed: March 6, 2002
For: SYSTEMS AND METHODS FOR PROVIDING LOAN MANAGEMENT FROM CASH OR DEFERRED INCOME ARRANGEMENTS

**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on May 16, 2003, under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted is the inventor's statement that Applicant 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
(703) 605-0586 (fax)

SNM/dxn: 5/29/03

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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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JUL 24 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Patent No. 7,302,413 | : | |
| Application No. 10/092,279 | : | |
| Filed: March 6, 2002 | : | ON PETITION |
| Issued: November 27, 2007 | : | |
| Attorney Docket No. 11559-003-999 | : | |

This is a decision on the petition filed December 21, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

A $130.00 processing fee will be charged to petitioner's deposit account as authorized.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

OIPE USPTO
MAY 29 2008
PATENT & TRADEMARK OFFICE

03630.000300

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|---|---|---|
| In re Patent of: | ) | |
| KEMP, ET AL. | ) | Examiner: S. Ebrahimi |
| Appl. No.: 10/092,283 | ) | Group Art Unit: 2625 |
| Filed: March 7, 2002 | ) | |
| For: CREATING A LOCALLY MANAGED INSTANCE OF A NETWORK PRINTER | ) | |
| U.S. Patent No.: 7,253,915 B2 | ) | |
| Issued: August 7, 2007 | ) | May 28, 2008 |

Certificate
JUN 03 2008
of Correction

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF
CORRECTION UNDER RULES 322 AND 323

Sir:

It is respectfully requested that a Certificate of Correction be issued by the Patent and Trademark Office due to errors which appear in the printed patent as a result of Patent and Trademark Office mistakes, and mistakes of a clerical, typographical, or minor character, which were not the fault of the Patent and Trademark Office. A Certificate of Correction form, in duplicate, is enclosed.

Accompanying this letter is a check for $100.00 to cover the statutory fee for such Certificate of Correction.

05/30/2008 JADD01 00000045 7253915
01 FC:1811 100.00 OP
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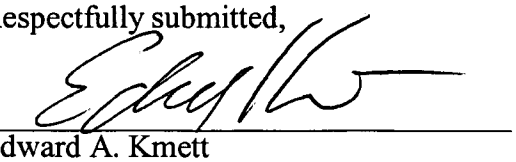
Patent Publication
JUN - 3 2008

Patentees' undersigned attorney may be reached in our Costa Mesa, California office by telephone at (714) 540-8700. All correspondence should continue to be directed to our address given below.

Respectfully submitted,



Edward A. Kmett
Attorney for Patentees
Registration No.: 42,746

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
Facsimile: (212) 218-2200

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# CERTIFICATE OF CORRECTION

**PATENT NO.** : 7,253,915 B2

**DATED** : August 7, 2007

**INVENTOR(S)** : Kemp, et al.



**It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:**

COVER SHEET:
(56) Insert -- OTHER PUBLICATIONS "Read Me First", Lexis-Nexus® P-2219-1 --.

COLUMN 4:
Line 30, "in" should read -- in a --.

COLUMN 5:
Line 42, "setup" should read -- set up --.

COLUMN 13:
Line 39, "step" should read --steps--;
Line 45, "provide" should read --provides--; and
Line 55, "determining," should read --determining--.

COLUMN 18:
Line 16, "type the" should read -- type of the --.

The correction filed by the applicant are proper, and would not change the scope of the invention.

/Saeid Ebrahimi Dehkordy/ 08/11/2008

**MAILING ADDRESS OF SENDER:**
FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

**PATENT NO.** 7,253,915 B2

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JUN - 3 2008

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UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

**PATENT NO.** : 7,253,915 B2

**DATED** : August 7, 2007

**INVENTOR(S)** : Kemp, et al.



**It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:**

COVER SHEET:
(56) Insert -- OTHER PUBLICATIONS "Read Me First", Lexis-Nexus® P-2219-1 --.

COLUMN 4:
Line 30, "in" should read -- in a --.

COLUMN 5:
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Line 45, "provide" should read --provides--; and
Line 55, "determining," should read --determining--.

COLUMN 18:
Line 16, "type the" should read -- type of the --.

/Saeid Ebrahimi Dehkordy/ 08/11/2008

**MAILING ADDRESS OF SENDER:**
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**PATENT NO.** 7,253,915 B2

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## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 30, 2007

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/092287 Patent No.: 6858396 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.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

**Comments:** Fee should be charged
Not all office's mistake

Charles Tsay — SPE
1654 — Art Unit

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WASHINGTON, D.C. 20231
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Certificate
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of Correction

Mailed:

chk
Paper No. 9

*In re* Application of KUME et al.
Serial No.: 10/092,297
Filed: March 7, 2002

**DECISION ON PETITION UNDER** *37 CFR 1.48(b)*

Title: BAKING SHEET,BAKING PRINTED SHEET AND BURNED SHEET THEREOF

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed November 7, 2003 under 37 CFR §1.48(b) by deleting the name of Makoto Kai as an inventor.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(b) of (1) A request, signed by a party set forth in § 1.33(b), to correct the inventorship that identifies the named inventor or inventor's being deleted and acknowledges that the inventor's invention is no longer being claimed in the nonprovisional application; and (2) The processing fee set forth in § 1.17(i).

The request is GRANTED.

Cynthia H. Kelly
Supervisory Patent Examiner
Art Unit 1774
Technology Center 1700

Keith Scala
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVE
WASHINGTON, D.C. 20037

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Technology Center 2100

AMIN & TUROCY, LLP
1900 EAST 9TH STREET, NATIONAL CITY CENTER
24TH FLOOR,
CLEVELAND, OH 44114

In re Application of: ZINK, et al.
Application No. 10/092,323
Filed: March 6, 2002
For: SYSTEM AND METHODOLOGY PROVIDING OPTIMIZED DATA EXCHANGE WITH INDUSTRIAL CONTROLLER

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed February 18, 2005, 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.

The Petition is **DISMISSED**.

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, 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. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. 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.

The petition filed February 18, 2005 fails to adequately meet requirements (b), (c) and (e) of the criteria set forth above.

With respect to requirement (b), the phrase "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" was not stated in the petition.

With respect to requirement (c), while a listing of the field of search by class was provided, respective subclasses of those classes were not listed.

With respect to requirement (e), a complete detailed discussion of the (aforementioned most closely related) references has not been provided with the necessary specificity required under 37 CFR 1.111 (b) and (c). Specifically, Petitioner should ensure that the above discussion is directed to how the language of **each of the independent claims** are specifically distinguishable and patentable from the references provided in requirement (d) above. It is noted that independent claims 21, 31 and 32 differ in scope from the discussions presented in the petition with respect to independent claims 1 and 33, specifically regarding the aggregation component that is defined and installed by an entity remote from the controller.

Note, the reference erroneously identified as US 5,888,794 in the detailed discussion section of the petition, should be changed to US 5,844,794 as correctly identified in the Information Disclosure Statement filed 12/10/04.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted by a declaration or statement providing the information as outlined above.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

4/11/05

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

SDL: 04/05/05

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Technology Center 2100

AMIN & TUROCY, LLP
1900 EAST 9TH STREET, NATIONAL CITY CENTER
24TH FLOOR,
CLEVELAND OH 44114

In re Application of: Zink, et al.
Application No. 10/092,323
Filed: 6 March 2002
For: SYSTEM AND METHODOLOGY PROVIDING OPTIMIZED DATA EXCHANGE WITH INDUSTRIAL CONTROLLER

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the Request for Reconsideration filed 15 June 2005 on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, originally filed on 18 February 2005.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(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. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. 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.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

7/6/05

GO

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.: X**

DATE : October 23,2007

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/092,358 Patent No.: 7230993 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code COCX.

**DO NOT SENT TO ATTORNEY**

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

**Certificates of Correction Branch (CofC)**
**South Tower - 9A22**
**Palm Location 7580**

**You can fax the Directors/SPE response to 571-270-9990**

*LAMONTE NEWSOME*
**Certificates of Correction Branch**
**703-308-9390 ext. 112**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**
Note your decision on the appropriate box.

| | |
|---|---|
| ☑ **Approved** | **All** changes apply. |
| ☐ **Approved in Part** | Specify below which changes **do not** apply. |
| ☐ **Denied** | State the reasons for denial below. |

**Comments:** No new matter has been included in the request for a certificate of correction.

DAVID C. PAYNE
SUPERVISORY PATENT EXAMINER

SPE

2611
Art Unit

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OFFICE OF PETITIONS

**MICHAEL, BEST & FRIEDRICH LLP**
**100 EAST WISCONSIN AVENUE**
**SUITE 3300**
**MILWAUKEE WI 53202**

In re Patent No. 6,979,155 :
Issue Date: December 27, 2005 :
Application No. 10/092,379 : ON PETITION
Filed: March 6, 2002 :
Attorney Docket No. 11136/10 (PTG-0867-US) :

This is a decision on the petition under 37 CFR 1.378(c), filed March 4, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 28, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Olisa Anwah at (571) 272-6051 or in his absence to the undersigned at (571) 272-7099.

The patent file is being forwarded to Files Repository.

David Bucci
Petitions Examiner
Office of Petitions

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**FULBRIGHT & JAWORSKI L.L.P.**
**A REGISTERED LIMITED LIABILITY PARTNERSHIP**
**SUITE 2400**
**600 CONGRESS AVENUE**
**AUSTIN TX 78701**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Sheldon, Jeffrey J. | : | |
| Application No. 10/092,385 | : | ON PETITION |
| Filed: March 5, 2002 | : | |
| Attorney Docket No. IDEV:020US | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 1, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and a Pre-Appeal Brief Request for Review, (2) the petition fee, and (3) a proper statement of unintentional delay.

**The Notice of Appeal filed December 1, 2008, 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.**

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 $555.00 extension of time fee submitted with the petition on December 1, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 3773 for further processing.

Liana Walsh
Petitions Examiner
Office of Petitions

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ROBINS & PASTERNAK LLP
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO CA 94303

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**OFFICE OF PETITIONS**

In re Patent No. 7,238,674
Issue Date: July 3, 2007
Application No. 10/092,454
Filed: March 5, 2002
Attorney Docket No. 0800-0009.08

DECISION ON PETITION

This is a decision on the petition filed July 18, 2008, requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimer filed December 18, 2003 be withdrawn and replaced with the terminal disclaimer filed July 18, 2008. The Office is in receipt of $130.00 towards the $400 petition fee. As such deposit account no. 18-1648 will be charged the $270 difference.

The petition is **DISMISSED**.

Unfortunately the above-identified application issued as a patent. Once a patent issues, the USPTO will not remove the effect of a recorded terminal disclaimer. *See* Manual of Patent Examining Procedure (MPEP) § 1490(B); Bayer AG v. Carlsbad Technology Inc., 64 USPQ2d 1045, 1048-49 (Fed. Cir. 2002).

Telephone inquiries related to this decision should be addressed to the undersigned at (571) – 272-3215.

Charlema Grant

Charlema 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
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1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

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OFFICE OF PETITIONS

In re Patent No. 7,238,674 :
Issue Date: July 3, 2007 :
Application No. 10/092,454 : ON PETITION
Filed: March 5, 2002 :
Attorney Docket No. 0800-0009.08 :

This is a decision on the petition filed July 18, 2008, which is being treated as a petition under 37 CFR 3.81(b)[1] to add 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

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBINS & PASTERNAK LLP
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SUITE 230
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OFFICE OF PETITIONS

In re Patent No. 7,238,674
Issue Date: July 3, 2007
Application No. 10/092,454
Filed: March 5, 2002
Attorney Docket No. 0800-0009.08

: DECISION ON PETITION

This is a decision on the renewed petition filed October 14, 2008, requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimer filed December 18, 2003 be withdrawn and replaced with the terminal disclaimer filed July 18, 2008.

On renewed petition, patentees maintain the corrected terminal disclaimer seeks to correct typographical errors and name the current assignee.

The petition is **DISMISSED**.

Unfortunately the above-identified application issued as a patent. Once a patent issues, the USPTO will not remove the effect of a recorded terminal disclaimer. *See* Manual of Patent Examining Procedure (MPEP) § 1490(B); Bayer AG v. Carlsbad Technology Inc., 64 USPQ2d 1045, 1048-49 (Fed. Cir. 2002).

Further, to the extent petitioner seeks to correct typographical errors the appropriate manner is via a certificate of correction. See MPEP 1490 VII B. In order to name the current assignee, patentee can seek recordation of the terminal disclaimer filed on July 18, 2008.

Telephone inquiries related to this decision should be addressed to the undersigned at (571) – 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

**SCANI** **Please forward case and paper to address shown below.**

**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

DATE : 5/15/07

Paper No.: _____

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/092455 Patent No.: 6801535

**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: _____

_____

_____

_____

_____

SPE
MINSUN OH HARVEY
PRIMARY EXAMINER

2628
Art Unit

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:** 20090713

**DATE** : 6/29/09

**TO SPE OF** : ART UNIT 2173

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 10092458 Patent No.: 6968511 B1

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (C of C)**
**Randolph Square 9D40-D**
**Palm Location 7580**

You can fax the Directors/SPE response to 571-270-9990

*Lamonte Newsome*

**Certificates of Correction Branch**

**703-756-1574**

**Thank You For Your Assistance**

---

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

| | |
|---|---|
| ☑ **Approved** | **All** changes apply. |
| ☐ **Approved in Part** | Specify below which changes **do not** apply. |
| ☐ **Denied** | State the reasons for denial below. |

**Comments:** _____

/Kieu Vu/ — **SPE**

2173 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SHLESINGER, ARKWRIGHT & GARVEY LLP
5845 Richmond Highway, Suite 415
ALEXANDRIA VA 22303

MAILED

JUN 14 2010

OFFICE OF PETITIONS

In re Patent No. 6,960,450 :
Issue Date: November 1, 2005 :
Application No. 10/092,462 : DECISION ON PETITION
Filed: March 8, 2002 :
Attorney Docket No. 7207 :

This is a decision on the petition under 37 CFR 1.182, filed October 1, 2009, requesting correction of the inventor's address.

The petition is **GRANTED**.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The patent is being referred to the Certificate of Corrections Branch for issuance of a certificate of correction.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Shlesinger, Arkwright, & Garvey LLP
1420 King Street, Suite 600
Alexandria, VA 22314

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OIPE JC10
JAN 20 2004
PATENT & TRADEMARK OFFICE

Paper No. 11

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

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DEC 17 2003

OFFICE OF PETITIONS

In re Application of
Hara et al.
Application No. 10/092,465
Filed: March 8, 2002
Attorney Docket No. 108384-00045

DECISION ON PETITION

This is a decision on the petition filed on December 3, 2003, requesting that the above-identified application be accorded a filing date of March 8, 2002.

On March 8, 2002, applicants deposited the above-identified application. However, on May 29, 2002, the Office mailed a "Notice Of Incomplete Application," requiring, inter alia, drawings and stating that the filing date would be the date of receipt of the omitted drawings. In response, on June 28, 2002, applicants submitted nine sheets of drawings. Thereafter, the Office accorded the application a filing date of June 28, 2002, the date applicants filed the omitted drawings. On December 3, 2003, applicants filed the present petition, a copy of the application transmittal, and a copy of their postcard receipt date-stamped March 8, 2002.

Upon review of the record, nine sheets of drawings have not been located in the official file. Initially, the Office notes that the postcard receipt does not itemize with particularity the total number of sheets of drawings. Rather, applicants' postcard receipt indicates a "New Application" was filed on March 8, 2002. Additionally, the box for drawings on the postcard was not checked.

As set forth in Section 503 of the Manual of Patent Examining Procedure, in pertinent part:

> A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO. The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, applicant identifier, application number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc.,

> and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application), etc.
>
> The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings, etc.) of an application if one of the components or portion of a component is found to be missing by the PTO. Each separate component should be specifically and properly itemized on the postcard. (Emphasis added).

Because the postcard receipt does not properly identify and itemize the papers, it does not serve as prima facie evidence that drawings were filed on March 8, 2002. A search of the official file reveals that on March 8, 2002, applicants submitted a "Continuing Application Transmittal Under Rule 1.53(b)," which stated that the application is a continuation-in-part of prior application No. 09/463,967 and that the entire disclosure from the prior application is incorporated by reference.

Section 201.06(c) of the Manual for Patent Examining Procedure permits the entering of a portion of the prior application into a continuation or divisional application when the portion of the prior application was inadvertently omitted from the continuation or divisional application. Based on applicants' representation that the drawings supplied on June 28, 2002, constitute a copy of the drawings filed in the prior application, and the incorporation by reference statement appearing in Transmittal deposited on March 8, 2002, it is appropriate, on petition, to accord the application the requested filing date.

The petition is **granted**.

**The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of March 8, 2002,** using the drawing sheets submitted on June 28, 2002.

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

## CLAIMS

9. A platinum sputtering target material, wherein said target material containing columnar crystals grown in a direction normal to a sputtering surface, and a ratio of an integral intensity of a (200) face to that of another arbitrary crystal face as determined by X-ray diffractometry is greater than the corresponding ratio as measured for a powder platinum sample.

10. A ruthenium sputtering target material, wherein said target material containing columnar crystals grown in a direction normal to a sputtering surface, and a ratio of an integral intensity of a (112) face to that of another arbitrary crystal face as determined by X-ray diffractometry is greater than the corresponding ratio as measured for a powder ruthenium sample.

11. A ruthenium sputtering target material, wherein said target material containing columnar crystals grown in a direction normal to a sputtering surface, and a ratio of an integral intensity of a (002) face to that of another arbitrary crystal face as determined by X-ray diffractometry is greater than the corresponding ratio as measured for a powder ruthenium sample.

12. A ruthenium sputtering target material, wherein

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DW 08-02

Paper No. 4

MCGUIRE WOODS
SUITE 1800
1750 TYSONS BOULEVARD
MCLEAN VA 22102-4215

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AUG 3 0 2002

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Kim et al. | : | DECISION GRANTING |
| Application No. 10/092,513 | : | PETITION |
| Filed: 8 March, 2002 | : | |
| Attorney Docket No. 6192.0228.AA | : | |

This is a decision in reference to the petition under 37 CFR 1.182 filed on 3 May, 2002, concerning the U.S. Patent and Trademark Office's handing of the above-identified application.

The petition is **granted**.

On 8 March, 2002, the above-identified application was filed.

On 10 April, 2002, Initial Patent Examination Division mailed a Notice of Omitted Items in a Nonprovisional Application, advising applicants that the application had been accorded a filing date of 8 March, 2002, but that Figures 3a, 3b, 8a, 8b, and 9 described in the specification appeared to have been omitted from the application.

In response, the present petition was filed on 3 May, 2002. Petitioners assert that Figures 3a, 3b, 8a, 8b, and 9, were not missing on 8 May, 2002. In support, petitioners have submitted an itemized postcard bearing an Office-date stamp of "03/08/02" and the above-identified application number and itemizing the filing of 11 sheets of drawings.

Upon review of the Official file, it has been discovered that the drawings filed on 8 March, 2002, with the original application papers were inadvertently placed in another application file. Additionally, the drawings belonging to another application were inadvertently placed in the above-identified application file. The 11 sheets of drawings containing Figures 1, 2, 3a, 3b, 4-7,

8a, 8b, and 9 filed with the original application papers on 8 March, 2002, have now been located. The drawings for the two applications have now been placed in the correct application files.

As it is obvious that Figures 3a, 3b, 8a, 8b, and 9 were not missing on 8 March, 2002, the Notice mailed on 10 April, 2002, is **vacated**.

As this petition was necessitated by an error on the part of the USPTO, the petition fee will be credited to counsel's deposit account, No. 23-1951.

The application will be processed and examined using the 11 sheets of drawings filed on 8 March, 2002. The copies of application papers supplied on 3 May, 2002, will not be used for processing or examination, but will be retained in the application file.

The application is being returned to the Office of Initial Patent Examination for reprocessing using the 11 sheets of drawings filed on 8 March, 2002, and for an indication on the bibliographic data sheet that 11 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/092,523 | 03/08/2002 | Frank L. Bruno | | 7219 |

7590 09/08/2003

Clyde I. Coughenour
16607 Sutton Place
Woodbridge, VA 22191

| EXAMINER |
|---|
| SNIDER, THERESA T |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1744 | |

DATE MAILED: 09/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|---|---|---|---|
| 10/092,523 | 03/08/2002 | Frank L. Bruno | None |

**CONFIRMATION NO.**
7219

Clyde I. Coughenour
16607 Sutton Place
Woodbridge VA 22191

## Decision Dismissing Petition under 37 CFR 1.138(c)

*The declaration of express abandonment will not be recognized*

This is in response to the petition under 37 CFR 1.138(c) for express abandonment to avoid publication of the above-identified application, for which a faxed copy of the original petition was received on August 20, 2003.
The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition under 37 CFR 1.138(c) was not received in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☑ The Application was published on July 18, 2002, in compliance with 35 U.S.C. 122(b), the publication number is US20020092103A1, and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has been published** as scheduled.

Telephone inquiries should be directed to the Office of Patent Publication, the Pre-Grant Publication Division, at 703-605-4282.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

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UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
1300 I STREET, NW
WASHINGTON DC 20006

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FEB 2 6 2003

OFFICE OF PETITIONS

Applicant: Dubief et al.
Appl. No.: 10/092,530
Filing Date: March 8, 2002
Title: COSMETIC COMPOSITION FOR TREATING KERATIN SUBSTANCES, COMPRISING AT LEAST ONE GRAFTED SILICONE POLYMER AND AT LEAST ONE AQUEOUS DISPERSION OF INSOLUBLE PARTICLES OF NONIONIC OR CATIONIC POLYMER
Attorney Docket No.: 05725.0301-01
Pub. No.: US 2002/0136699 A1
Pub. Date: September 26, 2002

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on November 26, 2002.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contain several mistakes, which may be material mistakes.

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 "skeleton-grafted" for "skeleton grafted"; an improper "is" inserted in a sentence; "carboxyllc" for "carboxylic"; the phrase "Claims" is missing at the start of the claims section and "acrylonicrile" for "acrylonitrile", which are not material mistakes because the technical disclosure and the claims are understandable.

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 first error identified by applicant is not a material mistake by the Office because the specification as originally filed is not a clear copy and it contains marking, in which "skeleton grafted" appears to be hyphenated. The other mistakes are minor typographical errors, which are clearly understandable from reading the specification and claims in which the terms are used, as

[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).

words are not read in a vacuum. The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Box PGPUB
Commissioner for Patents
Washington DC 20231

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 1600 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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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**MAILED**

JUN 02 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Manelli Denison & Selter
2000 M Street NW, Suite 700
Washington, DC 20036-3307

In re Application of :
William O. Gohlke :
Application No. 10/092,534 :
Filed: March 8, 2002 :
For: CONTAINER AND METHOD FOR TRANSPORTING CARGO ON A FLATBED VEHICLE

**DECISION ON PETITION TO MAKE APPLICATION SPECIAL (AGE)**

This is in response to the petition filed on March 8, 2002 to make the above-identified application special on the basis of special examining procedure for certain new applications as set forth in MPEP § 708.02, Section IV, Applicant's Age. The delay in treating this petition is sincerely regretted.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a signed statement from the applicant stating that he is at least 65 years of age.

For the above stated reasons, 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.

Randolph A. Reese, Special Programs Examiner
Technology Center 3600
(703) 308-2121
(703) 605-0586 (facsimile)

RAR/tpl: 4/29/03

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 16

RAYMOND Y. CHAN
1050 OAKDALE LANE
ARCADIA, CA 91006

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JUL 19 2004

OFFICE OF PETITIONS

In re Application of :
Tsung Ming Ou :
Application No. 10/092,578 : ON PETITION
Filed: March 8, 2002 :
Attorney Docket No. USDP1531T-TB :

This is a decision on the petition under 37 CFR 1.137(b), filed June 17, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action October 23, 2003. Accordingly, this application became abandoned on January 24, 2004. A Notice of Abandonment was mailed on May 17, 2004.

The file is being forwarded to technology Center 3700 for review of the Request For Continued Examination, filed June 17, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA CA 94501

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SEP 18 2006
OFFICE OF PETITIONS

In re Application of :
James D. Marks et al. :
Application No. 10/092,640 : DECISION ON PETITION
Filed: March 5, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 407T-897221US :

This is a decision on the petition filed March 29, 2006, 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 application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

**(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §120 is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the***

***application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

The claim for priority states that Application No. 08/665,202 is a continuation-in-part of provisional Application Nos. 60/000,238 and 60/000,250.

Petitioner's attention is directed to MPEP Section 201.11B, under subheading "Reference to Prior Provisional Applications," which states that the relationship (i.e., continuation, divisional, or continuation-in-part) is not required when a prior provisional application is being claimed under 35 U.S.C. §119(e). It is further stated therein that, although 35 U.S.C. §120 does not preclude a benefit claim to a provisional application, it is not recommended that applicants claim the benefit to a provisional application under 35 U.S.C. §120 since such a claim could have the effect of reducing the patent term, as the term of a patent issuing from such an application may be measured from the filing date of the provisional application pursuant to 35 U.S.C. § 1.154(a)(2). The corrected filing receipt will reflect the claim for benefit of priority under 35 U.S.C. §120 to the provisional applications as a continuation-in-part of Application No. 08/665,202, as set forth in the amendment.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the examiner of Technology Center Art Unit 1643 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the above-noted, prior-filed application.

Frances Hicks
Petitions Examiner
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 10/092,640 | 03/05/2002 | 1643 | 654 | 407T-897221US | 5 | 21 | 8 |

**CONFIRMATION NO. 1369**

22798
QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

**CORRECTED FILING RECEIPT**

*OC000000020395954*

Date Mailed: 09/12/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

**Applicant(s)**

James D. Marks, Kensington, CA;
Robert Schier, Stockdorf, GERMANY;

**Assignment For Published Patent Application**

The Regents of the University of California Office of Technology Transfer

**Power of Attorney:** The patent practitioners associated with Customer Number **22798**.

**Domestic Priority data as claimed by applicant**

This application is a DIV of 09/315,574 05/20/1999 PAT 6,512,097
which is a DIV of 08/665,202 06/13/1996 PAT 5,977,322
which is a CIP of 60/000,238 06/14/1995
and is a CIP of 60/000,250 06/15/1995

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 04/05/2002

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/092,640**

**Projected Publication Date:** 12/21/2006

**Non-Publication Request:** No

**Early Publication Request:** No

** SMALL ENTITY **

**Title**

Novel high affinity human antibodies to tumor antigens

**Preliminary Class**

530

## 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).

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## LICENSE FOR FOREIGN FILING UNDER
## Title 35, United States Code, Section 184
## Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted

under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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NIXON & VANDERHYE PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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SEP 18 2006

OFFICE OF PETITIONS

In re Application of :
Yasuhiro Nakai et al :
Application No. 10/674,472 : DECISION GRANTING PETITION
Filed: October 1, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2018-784 :

This is a decision on the petition, filed September 15, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on August 28, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2837 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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**Weaver, Austin, Villeneuve & Sampson, LLP**
**P.O. Box 70250**
**Oakland, CA 94612-0250**

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NOV 25 2008

| | | |
|---|---|---|
| In re Application of | : | |
| James D. Marks et al. | : | |
| Application No. 10/092,640 | : | DECISION ON PETITION |
| Filed: March 5, 2002 | : | TO WITHDRAW |
| Attorney Docket No. 407T-897221US | : | 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 December 17, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that attorneys associated with customer number 22798 do not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Quine Intellectual Property Law Group, P.C.
P.O. Box 458
Alameda, CA 94501

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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APR 09 2008

OFFICE OF PETITIONS

In re Application of :
Senthil Prabakaran et al :
Application No. 10/092,646 : DECISION GRANTING PETITION
Filed: March 6, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 5670-40 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 6, 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 appeal brief; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply received August 6, 2007, 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 2194 to consider the appeal brief received August 6, 2007.

Karen Creasy
Petitions Examiner
Office of Petitions

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Director's Office
Office of Patent Publication

STEVEN M MITCHELL
PACESETTER INC
701 EAST EVELYN AVENUE
SUNNYVALE, CA 94086

In re Application of :
CASEY O'HARA :
Application No. 10/092,666 : **DECISION ON PETITION**
Filed: March 5, 2002 :
Attorney Docket No. VT0309-US1 :

This is a decision on the Petition To Withdraw Holding Of Abandonment Under 37 CFR § 1.181, received in the United States Patent & Trademark (USPTO) on February 9, 2006.

The petition is **DISMISSED**.

The above-identified application was held abandoned for Applicants failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due, mailed September 23, 2005. The Notice of Abandonment indicates that the submitted fee of $0 is insufficient. A balance of $1,400 is due.

The Office acknowledges receipt of Part B – Fee(s) Transmittal on December 2, 2005, authorizing that the Issue Fee be charged to Deposit Account No. 22-0265. Unfortunately, on December 2, 2005, when an attempt was made by the Office of Finance to charge the fee, there were insufficient funds in the Deposit Account.

37 CFR §1.25 (a) and (b), states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR § 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR § 1.137(a), a petition for the revival of an ***unavoidably*** abandoned application
- Under 37 CFR § 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

*By mail:*
Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision may be directed to the undersigned at 703 308-9250.

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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STEVEN M. MITCHELL
PACESETTER INC
701 EAST EVELYN AVENUE
SUNNYVALE CA 94086

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AUG 14 2006

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Casey O'Hara | : | DECISION GRANTING PETITION |
| Application No. 10/092,666 | : | |
| Filed: March 5, 2002 | : | |
| Attorney Docket No. VT0309-US1 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed March 6, 2006, to revive the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

This application became abandoned for failure to pay the issue fee as required by the Notice of Allowance and Fee(s) Due mailed on September 23, 2005, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on December 24, 2005. A Notice of Abandonment was mailed on January 27, 2006. Petitioner has met the requirements under 37 CFR 1.137(b). Accordingly, the petition is **GRANTED.**

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Petitioner submitted a request for an extension of time to file a response with the present petition after the maximum period obtainable for reply. Accordingly, the $1,020.00 extension of time fee is unnecessary and will be credited to petitioner's deposit account.

This matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

DERGOSITS & NOAH LLP
FOUR EMBARCADERO CENTER
SUITE 1150
SAN FRANCISCO, CA 94111

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MAR 17 2004

OFFICE OF PETITIONS

In re Application of :
Lewis et al. :
Application No. 10/092,667 : ON PETITION
Filed: March 6, 2002 :
Attorney Docket No. 538.02 :

This decision concerns the February 26, 2004 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on June 10, 2002 for failure to timely submit replacement drawings as required by the April 9, 2002 "Notice to File Corrected Application Papers."

The instant petition encloses a set of replacement drawings which have been approved by the draftsperson, and the $665 petition fee (small entity); and states that the entire delay in filing these drawings was unintentional. The petition is thus granted. The application is now complete.

In addition, the correspondence address used in the instant petition differs from that in the USPTO record for this application. While a copy of the decision is being sent to the address indicated in the petition, all future correspondence on this application will be mailed to the current address-of-record unless the USPTO is properly instructed otherwise.

The file is being forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

cc: Michael E. Dergosits, Esq.
Dergosits & Noah, LLP
Four Embarcadero Center, Suite 1450
San Francisco, CA 94111

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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AUG 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Dunworth et al. :
Application No. 10/092,669 : DECISION ON PETITION
Filed: March 6, 2002 :
Attorney Docket No. 010481 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 9, 2005, to revive the above-identified application. This petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office apologizes for any inconvenience.

This application became abandoned for failure to reply timely to the nonfinal Office Action mailed January 25, 2005, which set a three-month shortened statutory period to reply. Accordingly, this application became abandoned on April 26, 2005. A Notice of Abandonment was mailed on August 25, 2005.

The Office notes that 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" be submitted. The statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

The petition is **granted.**

The matter is being referred to Technology Center Art Unit 2685.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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QUINE INTELLECTUAL PROPERTY LAW GROUP
P O BOX 458
ALAMEDA, CA 94501

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OFFICE OF PETITIONS

In re Application of :
Raymond L. White et al :
Application No. 10/092,672 : ON PETITION
Filed: March 7, 2002 :
Attorney Docket No. 316T-003100US :

This is a decision on the petition, filed July 28, 2005, to withdraw the holding of abandonment for the above-identified application and, alternatively, a petition under 37 CFR 1.137(b), to revive this application.

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned on September 27, 2003 for failure to timely respond to the non-final Office mailed August 26, 2003. A Notice of Abandonment was mailed on June 17, 2005.

The instant petition asserts that a reply to the August 26, 2003 Office action was deposited in the U.S. Post Service (USPS) as Express Mail on September 25, 2003, implying that the application should not be held abandoned. In support, the petition is accompanied by a copy of the Express Mail receipt No. EV321689014US; however, the "date-in" on the copy of the Express Mail receipt was left blank, and all other spaces on the label that are normally filled by a USPS employee are completely blank.

## PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Under 37 CFR 1.6, correspondence filed in the USPTO is stamped with the date of receipt, except, those mailed via the USPS "Express Mail Post Office to Addressee" service or transmitted by facsimile are stamped with the date of deposit as "Express Mail" with the USPS, or the date the transmission is received by the USPTO, respectively. However, in this case, the reply allegedly mailed to the USPTO utilizing the USPS "Express Mail Post Office to Addressee" service on September 25, 2003, was evidently not received by the USPTO. Applicants may petition the Commissioner to consider the reply filed in the USPTO on the USPS deposit date, i.e., September 25, 2003, provided that:

(1) The petition is filed promptly after Applicants became aware that the Office has no evidence of receipt of the reply;
(2) The number of the "Express Mail" mailing label was placed on the reply prior to mailing by "Express Mail";
(3) the petition includes:
(a) a copy of the reply showing the "Express Mail" mailing label number;
(b) a copy of any returned postcard receipt;
(c) a copy of the "Express Mail" mailing label showing the "date-in";
(d) a copy of any other official notation by the USPS relied upon to show the date of deposit; and
(e) a statement establishing, to the satisfaction of the Commissioner:
(i) deposit of the reply on September 25, 2003
(ii) items (a), (b), (c)), (d) above are true copies of their respective originals.

The Office may require additional evidence for determining whether the reply was indeed deposited as "Express Mail" with the USPS on September 25, 2003.

The present petition lacks all the requirements above. Thus, the petition is dismissed.

**PETITION UNDER 37 CFR 1.137(b)**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of August 26, 2003 is accepted as having been unintentionally delay.

As authorized, the $750 petition fee is being charged to petitioner's Deposit Account No. 50-0893.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1631.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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**QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.**
**P O BOX 458**
**ALAMEDA, CA 94501**

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**MAR 3 1 2008**

In re Application of

**WHITE,** Raymond L. et al.
Application No. 10/092,672
Filed: March 07, 2002
Attorney Docket No.

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 December 13, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Jonathan A. Quine on behalf of all attorneys of record who are associated with customer No. 22798. All attorneys/agents associated have been withdrawn.

The correspondence address of record to customer No. 22434 remains unchanged.

There is an outstanding Office action mailed February 07, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **BEYER WEAVER LLP**
**P.O. BOX 70250**
**OAKLAND, CA 94612-0250**

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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**MAY 18 2005**

**OFFICE OF PETITIONS**

In re Application of :
Halley, et al. : DECISION ON APPLICATION FOR
Application No. 10/092,675 : PATENT TERM ADJUSTMENT
Filed: March 7, 2002 :
Atty. Dkt. No.: 38190.234783 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" filed January 26, 2005.

The application for patent term adjustment ("PTA") under 37 C.F.R. § 1.705(b) is hereby **GRANTED AS INDICATID HEREIN**.

The correct patent term adjustment at the time of allowance is 223 days. The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 223 days. A copy of the updated PAIR screen showing the correct determination is enclosed

Applicants request that the Determination of Patent Term Adjustment be corrected from the 0 day determination indicated on the Determination of Patent Term Adjustment mailed November 24, 2004 to an adjustment of 221 days.

A review of the application history indicates a restriction requirement was mailed June 26, 2003, resulting in a 50 day adjustment under 37 CFR 1.702(a)(1) and 1.703(a)(1). The delay began May 8, 2003 and ended June 26, 2003.

The office errantly assessed a 166 day reduction for failure to engage in reasonable efforts to conclude prosecution with respect to the response to the restriction requirement that was mailed June 26, 2003 when in fact, a response to the restriction requirement was timely submitted July 1, 2003, as argued by applicants.

In accordance with 37 CFR 1.702(a)(2), a further adjustment of 179 days can be attributed to the Office for failure to timely

respond to applicants' response submitted July 1, 2003. In accordance with 37 CFR 1.703(a)(2), the adjustment began November 2, 2003, the day after the date that is four months after the date a reply under § 1.111 was filed, and ended April 28, 2004, the date the non-final Office action was mailed.

The adjustment was reduced six days under 37 CFR 1.704(c)(8) for submission of an IDS on July 19, 2004. The reduction began July 13, 2004, the date a response to the non-final Office action was received, and ended July 19, 2004, the date the IDS was submitted.

Accordingly, the period of patent term adjustment at the time of mailing of the Notice of Allowance was 223 days.

The application file is being forwarded to the Publications Division for issuance of 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

Enclosure: Copy of Adjustment PAIR Calculation

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BASF CORPORATION
ANNE GERRY SABOURIN
26701 TELEGRAPH ROAD
SOUTHFIELD, MI 48034-2442

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SEP 15 2004

OFFICE OF PETITIONS

In re Application of :
Luis Varela de la Rosa et al :
Application No. 10/092,679 : DECISION GRANTING PETITION
Filed: March 7, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. IN-9518 :

This is a decision on the petition, filed September 7, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on April 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 1713 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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WASHINGTON, D.C. 20231
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Paper No. 3

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AUG 1 4 2002

OFFICE OF PETITIONS

PACESETTER, INC.
15900 Valley View Court
Sylmar, CA 91392-9221

In re Application of :
Florio et al. : DECISION DISMISSING
Application No. 10/092,695 : PETITION AS MOOT
Filed: March 6, 2002 :
Attorney Docket No. A02P1020US01 :

This is a decision on the petition under 37 CFR 1.10 filed on July 3, 2002, requesting that the above-identified application be accorded a filing date of March 6, 2002.

Petitioner alleges that the application was deposited in Express Mail service on March 6, 2002. In support, on July 3, 2002, petitioner supplied a copy of Express Mail receipt No. EL758671539US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). In addition to the Express Mail receipt, petitioner has provided a copy of the United States Postal Service shipment history which indicates the Express Mail package bearing No. EL758671539US was en route on March 6, 2002.

A review of the Office PALM records reveals that this application was previously accorded a filing date of March 6, 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 **March 6, 2002**, and for issuance of a corrected Filing Receipt.

Telephone inquiries specific to this matter should be directed to Charlema R. Grant at (703) 306-0251.

Christina Tartera Donnell for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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COMMISSIONER FOR PATENTS
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Paper No.

Applied Materials, Inc.
2881 Scott Boulevard, M/S 2061
Santa Clara, CA 95050

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JUN 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Padmapani C. Nallan, et al. :
Application No. 10/092,795 : ON PETITION
Filed: March 6, 2002 :
Attorney Docket No. 7017/ETCH/CONE :

This is a decision on the petition under 37 CFR 1.137(b), filed April 22, 2004, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement 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 issue and publication fees were charged twice to petitioner's deposit account. In view thereof, one of the issue fees will be credited towards the petition fee and the duplicate publication fee will be credited to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to the Publishing Division to be processed into a patent.

Marianne E. Morgan

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JANSSON, SHUPE & MUNGER & ANTARAMIAN, LTD
245 MAIN STREET
RACINE, WI 53403

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SEP 0 6 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jonathan D. Smith :
Application No. 10/092,796 :
Filed: March 7, 2002 :
Attorney Docket No. RBC-101US :

This is a decision on the petition under 37 CFR 1.137(b), filed June 6, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed November 4, 2004, which set a shortened statutory period for reply of three (3) months. A one-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. An Advisory action was mailed March 29, 2004 indicating that the reply filed on March 7, 2005 (Certificate of Mailing dated March 3, 2005), failed to place the application in condition for allowance. Accordingly, the application became abandoned at midnight on March 4, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment and a Request for Continued Examination (RCE); (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed June 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 matter is being forwarded to Technology Center 3600, Art Unit 3644 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

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Paper No. None

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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AUG 0 9 2005
OFFICE OF PETITIONS

In re Application of
Miri Seiberg et al.
Application No. 10/092,810
Filed: March 7, 2002
Attorney Docket Number: JBP586
Title: COMPOSITIONS AND METHODS FOR REGULATING PHAGOCYTOSIS AND ICAM-1 EXPRESSION

DECISION DISMISSING PETITION UNDER 37 C.F.R. §1.137(b) AS MOOT

This is a decision on the petition filed June 14, 2005, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

A final Office action was mailed on August 12, 2004, which set a shortened statutory period for reply of three (3) months. On February 16, 2005, a Notice of Appeal was filed, along with a three-month extension of time.

On June 14, 2005, Petitioner filed the present petition. Shortly thereafter, Petitioner realized this application is not abandoned, and submitted a request to withdraw the previously filed petition, along with a Request for Continued Examination, an amendment, and a three-month extension of time to make timely the filing of the RCE on June 30, 2005.

As such, the present petition under 37 C.F.R. §1.137(b) is hereby **DISMISSED AS MOOT**, as the instant application is not abandoned.

1 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 § 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.

The petition fee will be refunded to Petitioner's Deposit Account, as authorized in the petition.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

**Paul Shanoski**
**Senior Attorney**
**Office of Petitions**
**United States Patent and Trademark Office**

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Paper No. 8

JOHNSON & JOHNSON
INTERNATIONAL PATENT LAW DIVISION
ATTENTION: PHILIP JOHNSON
P. O. BOX 1222
NEW BRUNSWICK, NJ 08903

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JUL 15 2003

OFFICE OF PETITIONS

In re Application of :
Tianmei Ouyang, et al. :
Application No. 10/092,836 :
Filed: March 6, 2002 :
Attorney Docket No. LFS-0214 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 30, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 31, 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, the $930 extension of time submitted with the petition on June 30, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account number 10-0750.

The Revocation and Power of Attorney and Change of Correspondence Address has been accepted and recorded.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to Technology Center 1600, Art Unit 1654 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

Robert Buyan
Stout, Uxa, Buyan & Mullins, LLP
4 Venture, Suite 300
Irvine, CA 92618

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AUG 0 2 2002

OFFICE OF PETITIONS

In re Application of :
Chai :
Application No. 10/092,852 : DECISION ON PETITION
Filed: March 5, 2002 :
Attorney Docket No. WNPLS-002A :

This is a decision on the petition filed June 10, 2002, requesting, in effect, that Figures 13 and 14 filed on June 10, 2002, be entered as part of the original disclosure.

The petition is **dismissed**.

The application was filed on March 5, 2002. On April 9, 2002, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of March 5, 2002, and advising applicant that Figures 13 and 14 appeared to have been omitted.

In response, the present petition was filed. Petitioner alleges Figures 13 and 14 were filed with the original application.

All the evidence present in the file has been carefully considered, but is not persuasive that Figures 13 and 14 were submitted with the original application.

The last portion of MPEP 513 states,

> Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application) ... The Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g. a postcard receipt ....

While petitioner apparently believes that Figures 13 and 14 were filed on April 9, 2002, the file of application No. 10/092,852[1] shows that Figures 13 and 14 were not received, since no such papers are present in the file. An applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. 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 are usually made weeks or months after the actual events recited. In this case, the declaration filed June 10, 2002, was made approximately three months after the application was filed. The declaration does not have more probative value than the official government record of what was actual received in the USPTO on March 5, 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.

It is for this reason that the USPTO has established a practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice, which was has been in existence for many years and is well publicized, requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

Petitioner has only demonstrated an intent to file Figures 13 and 14 and has not established that Figures 13 and 14 drawings were actually filed. Unfortunately, patent applicants and their representatives, who intend to file complete applications, occasionally file applications which are missing one or more pages, due to clerical error, a copying machine error (such as papers sticking together), papers falling out of a file, or another reason. A demonstration of an intent to included a page or pages does not establish the actual receipt of such pages by the Office.

Since applicants have not filed a petition under 37 CFR 1.182 requesting June 10, 2002, the date the missing pages were filed, as the filing date, **Figures 13 and 14 filed on June 10, 2002, will not be entered.**

An amendment to the specification deleting references to the missing pages should be filed prior to the first USPTO action in order to avoid further delays in the examination of the application. In the alternative, if petitioner desires for the examiner to consider pages which were not submitted as part of the original disclosure, then petitioner may seek to submit some or all of those pages as an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter. See MPEP 608.02(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

If a request of reconsideration, or petition under 37 CFR 1.182, is not filed within two months, the file will be returned to to the Office of Initial Patent Examination for further processing with a filing date of March 5, 2002, using the only the papers filed on that date. The file will be also be returned to to the Office of Initial Patent Examination for consideration of the formal drawings filed on June 10, 2002, except for page 7 containing Figures 13 and 14 which will not be entered.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
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Paper No. 13

JOSEPH A. SAWYER, JR.
SAWYER LAW GROUP LLP
P.O. BOX 51418
PALO ALTO, CA 94303

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SEP 2 9 2003

OFFICE OF PETITIONS

In re Application of
W. James Scheuermann
Application No. 10/092,859
Filed: March 6, 2002
Attorney Docket No. 2397P

DECISION DISMISSING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed August 25, 2003, under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on March 4, 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 January 8, 2004 accompanies this decision on petition.

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.

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 2185 for examination in due course.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Conferee: Frances M. Hicks
Lead Petitions Examiner

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

cc: JOSEPH A. SAWYER, JR.
SAWYER LAW GROUP, LLP
2465 E. BAYSHORE ROAD, STE. 406
PALO ALTO, CA 94303

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Commissioner for Patents
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P.O. Box 1450
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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

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DEC 12 2007

OFFICE OF PETITIONS

In re Application of :
W. James Scheuermann :
Application No. 10/092,859 : DECISION ON PETITION
Filed: March 6, 2002 :
Attorney Docket No. QSTH-06000 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 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.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 19, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 22, 2005 (November 19, 2005, the due date, is a Saturday). A Notice of Abandonment was mailed on October 30, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either

the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D).

The instant petition currently fails to satisfy item (3) above. In this regard, USPTO assignment records demonstrate that an assignment from Quicksilver Technology, Inc. to Techfarm Ventures Management, LLC [hereafter Techfarm] was executed on October 13, 2005, which would have made Techfarm the owner of this application during the period within which a reply could have been timely filed to the August 19, 2005 non-final Office action. The present petition is submitted by counsel for Qst Holdings, LLC [hereafter Qst]. An assignment from Techfarm to Qst was executed on August 31, 2006. Therefore, the record supports the fact that Qst did not obtain the entire right, title, and interest in the instant application until after expiration of the period set in the non-final Office action of August 19, 2005.

When the issue of revival is addressed, the focus must be on the rights of the party or parties as of the date of abandonment. See Kim v. Quigg, 718 F.Supp. 1280, 1284, 12 USPQ 1604, 1607 (E.D. Va. 1989). Petitioner's actions (or intentions) subsequent to expiration of the period for reply are immaterial to the question of the delay during the period that the reply could have been submitted. Id. Techfarm, as the putative owner of the entire interest at the time the reply to the August 19, 2005 Office action fell due, was free to deal with the application as Techfarm willed. See Garfield v. Western Electric Co., 298 F.Supp. 659 (S.D.N.Y. 1924). It follows that it is immaterial to the delay during the time the application was pending that petitioner may have been unaware of, or would have acquiesced to, Techfarm's actions or inactions. Kim, supra. That petitioner, upon its acquisition of its rights in this application, may have acted with dispatch, is immaterial to, and does not overcome, the delay attributable to Techfarms. Id.

Since petitioner herein, Qst, was not the party in interest at the time of expiration of the period for reply to the August 19, 2005 Office action, Qst, or its representative who was not associated with this application during the period within which a reply could have been timely filed, was not in a reasonable position to make the statement of unintentional delay. In the alternative, counsel who executed the statement of unintentional delay may wish to indicate that such statement is or was made after an inquiry into the underlying facts and circumstances surrounding the unintentional delay in filing a timely reply to the Office action of August 13, 2005. See 37 CFR 10.18.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

USPTO MAR 24 2009 PATENT & TRADEMARK OFFICE

PTO/SB/64 (02-09)
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# PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional): 4874-108108-US (H27180)

First named inventor: Jeremy Craig Wilson

Application No.: 10/092,883 Art Unit: 2624

Filed: March 8, 2002 Examiner: Manav Seth

Title: ACCESS CONTROL SYSTEM WITH SYMBOL RECOGNITION

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 $ 1,620.00 (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 $ 1,810.00.

☐ 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.*

03/24/2009 INTEFSW 00011792 10092883
01 FC:1453 1620.00 DA

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MCDERMOTT, WILL & EMERY
600, 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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**OFFICE OF PETITIONS**

In re Application of
Hideto Noguchi
Application No. 10/092,923
Filed: March 8, 2002
Attorney Docket No. 62807-049

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 30, 2007, 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 9, 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). 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 May 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

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

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the $1,050 extension fee submitted with the present petition is being credited to counsel's deposit account.

This application is being referred to Technology Center AU 2621 for processing of the RCE in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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SEP 2 7 2002

OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In Application of
Nguyen, et al.
Application No. 10/092,926
Filed: March 6, 2002
Attorney Docket No. 002558-064410US
Title: ASSAY SYSTEM FOR SIMULTANEOUS DETECTION AND MEASUREMENT OF MULTIPLE MODIFIED CELLULAR PROTEINS

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed August 19, 2002.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on March 6, 2002. On April 9, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring 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 paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a two month extension of time and included a Certificate of Mailing dated August 8, 2002.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Accompanying the petition were: (1) a declaration executed by inventor Nguyen, but with the signature block for inventor Song left blank; (2) an application data sheet; (3) a declaration from Catherine Green, stating that a "letter with documents for [Song's] signature" were mailed to Song's last known address via Airborne Express on March 11, 2002; and (4) an Airborne Express tracking notice indicating that the letter to Song was returned on April 15, 2002.

According to Green, Song was attempted to be located through an internet search; however, the search yielded too many individuals with the same name. In addition, Green states that three phone messages were left for Song, but no return calls or messages from Song were ever received. Lastly, Green indicates that as of the date of the declaration, no communication from Song of any kind has been received.

The declaration filed March 28, 2002 and the petition have been reviewed

and found to be 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(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

for D Mood

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

YONG SONG
629 MILLER AVE
APT 2
SOUTH SAN FRANCISCO CA 94080

COPY MAILED

SEP 2 7 2002

OFFICE OF PETITIONS

In re Application of :
Nguyen, et al. :
Application No. 10/092,926 :
Filed: March 6, 2002 : LETTER
Title: ASSAY SYSTEM FOR SIMULTANEOUS :
DETECTION AND MEASUREMENT OF MULTIPLE
MODIFIED CELLULAR PROTEINS

Dear Mr. Song:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 USC 116 and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney 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).

for D Wood

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Joel G. Ackerman
Townsend and Townsend and Crew LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
(415)576-0200

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. 14

HELLER EHRMAN WHITE & MCAULIFFE
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

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SEP 1 0 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Rong-Chang Liang et al :
Application No. 10/092,936 :
Filed: March 6, 2002 :
Attorney Docket No. 26822-0002 P2 :

This is a decision on the petition, filed September 9, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

**Petitioner is advised that the issue fee paid on August 20, 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 2873 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 8

Patent Administrator
KATTEN MUCHIN ZAVIS ROSENMAN
525 West Monroe Street
Suite 1600
Chicago, IL 60661-3693

MAY 21 2003

In re Application of:
SCHUTZBACH *et al.*
Application No. 10/092,950
Filed: March 08, 2002
Attorney Docket No.: 215185.00101

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed April 17, 2003, to make the above-identified application special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), § 708.02, Item II: Infringement.

The petition is **dismissed.**

A grantable petition under 37 C.F.R. § 1.102(d), and in accordance with M.P.E.P. § 708.02, Item II, must be accompanied by the required fee pursuant to 37 C.F.R. § 1.17(h), and a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office 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 was 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.

Applicant must also provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition and accompanying verified statement do not comply with the above requirements for special status inasmuch as the statement provided does not state that there **is** an infringing device or product actually on the market or method in use, and that a **rigid comparison** of

the alleged infringing device, product or method with the claims of the application was made, and that, in his or her opinion, some of the claims are **unquestionably** infringed.

Accordingly, the petition is **dismissed.**

Should petitioner desire reconsideration, petitioner should supplement this petition by a statement providing the information as outlined above. No further petition fee is required.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision.

Inquiries regarding 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

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/10/07

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 7105680

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:

_____

_____

_____

_____

_____

Acting SPE

1625
Art Unit

SPE : D. Payne

**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

Paper No.: _____

DATE : 3/5/07

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/092,971 Patent No.: 7145969

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:** The Changes marked "x" in RED do not apply (changes will create 112 issues)
Sheet with "x" marking attached.
QG 4/17/07

M. G

~~SPE~~

2611
**Art Unit**

PTO/SB/44 (04-04)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

# UNITED STATES PATENT AND TRADEMARK OFFICE

## CERTIFICATE OF CORRECTION



PATENT NO : 7,145,969

DATED : December 5, 2006

INVENTOR(S) : Guorong Hu et al.

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

| | |
|---|---|
| Column 6, Line 35 | Delete "+" and insert --^-- |
| Column 6, Line 47 | Delete "t0" and insert --r0-- |
| Column 6, Line 48 | Delete "104" and insert --Ψ-- |
| Column 7, Line 67 | Delete "n" and insert --in-- |
| Column 8, Line 3 | Delete "received" and insert --receiving-- |
| Column 9, Line 29 | Insert --set of-- after "one of the" (second occurrence) |
| Column 9, Line 41 | Insert --the set of-- after "one of" — no |
| Column 10, Line 6 | Delete "maximum valued" before "signal" — no |
| Column 10, Line 7 | Insert --signal in-- after "applying the" |
| Column 10, Line 8 | Delete "maximum valued" before "one" — no |
| Column 10, Line 8 | Insert --set of-- after "one of the" |
| Column 10, Line 25 | Insert the closed --)-- after "(QPSK" |
| Column 10, Line 36 | Insert the closed --)-- after "(QPSK" |
| Column 10, Line 45 | Delete "maximum-valued" before "signal" |
| Column 11, Line 16 | Delete "phase rotation" after "controlling" |
| Column 11, Line 26 | Delete "maximum-valued" before "signal" |
| Column 11, Line 29 | Delete "signal in" after "maximum-valued" — no |
| Column 12, Line 5 | Insert the closed --)-- after "(QPSK" |
| Column 12, Line 17 | Delete "further comprising" and insert --wherein the rotating includes-- no |

MAILING ADDRESS OF SENDER: Harness, Dickey & Pierce, P.L.C.
5445 Corporate Drive, Suite 200
Troy, Michigan 48098-2683

PATENT NO. 7,145,969

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.*

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

# UNITED STATES PATENT AND TRADEMARK OFFICE

## CERTIFICATE OF CORRECTION



PATENT NO : 7,145,969

DATED : December 5, 2006

INVENTOR(S) : Guorong Hu et al.

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

| | |
|---|---|
| Column 12, Line 31 | Delete "maximum-valued" before "signal" |
| Column 12, Line 32 | Delete "maximum-valued" and insert --signal in-- |
| Column 12, Line 35 | Delete "signal in" after "maximum-valued" |
| Column 12, Line 35 | Delete "set of" before "correlator" |
| Column 12, Line 67 | Insert the closed --)-- after "(QPSK" |
| Column 13, Line 8 | Delete "convening" and insert --converting-- |
| Column 13, Line 24 | Insert --symbol-- after "encoded" |
| Column 13, Line 32 | Delete "maximum valued" before "signal" |
| Column 13, Line 34 | Delete "maximum valued" before "signal" |
| Column 13, Line 35 | Insert --to-- after "signals" |
| Column 13, Line 37 | Delete "maximum valued" before "signal" |
| Column 13, Line 39 | Delete "maximum valued" before "signal" |
| Column 13, Line 48 | Insert the closed --)-- after "(QPSK" |
| Column 13, Line 51 | Insert --Quadrature Phase Shift Key-- after "differential" and insert parenthesis around "QPSK" before "demodulator" |
| Column 14, Line 21 | Insert the closed --)-- after "(QPSK" |
| Column 14, Line 24 | Insert --Quadrature Phase Shift Key-- after "differential" and insert parenthesis around "QPSK" before "demodulator" |
| Column 14, Line 30 | Delete "maximum-valued" |
| Column 14, Line 40 | Insert --Quadrature Phase Shift Key-- after "differential" and insert parenthesis around "QPSK" before "demodulator" |
| Column 14, Line 42 | Insert --Quadrature Phase Shift Key-- after "differential" and insert parenthesis around "QPSK" before "demodulator" |

MAILING ADDRESS OF SENDER: Harness, Dickey & Pierce, P.L.C.
5445 Corporate Drive, Suite 200
Troy, Michigan 48098-2683

PATENT NO. 7,145,969

No. of additional copies

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

FEB 2 2007

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DIW 12-02

Paper No. 6

ORANGE & CHARI
66 WELLINGTON ST. W., SUITE 4900
P.O. BOX 190
TORONTO ON M5K 1H6
CANADA

COPY MAILED

DEC 13 2002

OFFICE OF PETITIONS

In re Application of :
Vanstone, Menezes, Qu, and Struik : DECISION REFUSING STATUS
Application No. 10/092,972 : UNDER 37 CFR 1.47(a)
Filed: 8 March, 2002 :
Atty Docket No. 00001-0436 :

This is in response to the petition filed under 37 CFR 1.47(a) on 12 November, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 8 March, 2002, without an executed oath or declaration. Accordingly, on 11 April, 2002, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on 12 November, 2002,[1] petitioners filed the present petition, along with a five (5) month extension of time and a declaration naming Scott A. Vanstone, Alfred J. Menezes, Minghua Qu, and Rene Struik as joint inventors and signed by all of the

[1]Since 11 November, 2002, was a federal holiday within the District of Columbia, this correspondence is timely filed. 37 CFR 1.6(a)(3). MPEP 502.01.

joint inventors except Qu on behalf of themselves and joint inventor Qu.

Petitioners state that joint inventor Qu refuses to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regards to item (1), petitioners have not provided proof that Qu was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[2] The showing of record is that joint inventor Qu was sent only the declaration. Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

The petition fee of $130.00 has been charged to counsel's deposit account, No. 15-0633, as authorized in the fee transmittal submitted with the original application papers.

---

[2] MPEP 409.03(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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DIW 03-03

Paper No. 9

ORANGE & CHARI
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CANADA

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MAR 25 2003

OFFICE OF PETITIONS

In re Application of :
Vanstone, Menezes, Qu, and Struik : DECISION ACCORDING STATUS
Application No. 10/092,972 : UNDER 37 CFR 1.47(a)
Filed: 8 March, 2002 :
Atty Docket No. 00001-0436 :

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 11 March, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Minghua Qu, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the petitioners have established, via the statement of counsel's employee, Anton Sabeta, that a copy of the above-identified application was sent by courier and registered mailed to the non-singing inventor. The courier package was returned as undeliverable, while the non-signing inventor refused to accept delivery of the application papers sent by registered mail. The non-signing inventor further failed to return an executed declaration. As such, petitioners have shown that diligent efforts have been made to obtain the signature of the non-signing inventor.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to Technology Center 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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OPM 03-03

Minghua Qu
5495 Middlebury Drive
Mississauga, ON L5M 5G7
CANADA

COPY MAILED

MAR 2 5 2003

OFFICE OF PETITIONS

In re Application of
Vanstone et al.
Application No. 10/092,972
Filed: 8 March, 2002
For:KEY AGREEMENT AND TRANSPORT PROTOCOL

Dear Mr. Qu:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

ORANGE & CHARI
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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

MCKAY & ASSOCIATES, PC.
801 MCNEILLY ROAD
PITTSBURG, PA 15226

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JAN 11 2006

**OFFICE OF PETITIONS**

In re Application of :
Mercer et al. : DECISION ON PETITION
Application No. 10/093,048 :
Filed: March 7, 2002 :
Atty Docket No. 2113 :

This is a decision on the REQUEST FOR RECONSIDERATION OF HOLDING OF ABANDONMENT filed March 7, 2005 (and resubmitted July 11, 2005). This request is properly treated as a petition to withdraw the holding of abandonment pursuant to 1.181. This request was recently forwarded to the undersigned for consideration.

The petition under § 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed March 8, 2004. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely obtained and no extension of time filed, the application became abandoned effective June 9, 2004. A courtesy Notice of Abandonment was mailed on February 24, 2005.

Applicant asserts, in effect, that on May 24, 2004, they timely filed a reply to the Office action mailed March 8, 2004. Applicant states that, in error, the Office entered the reply as being received in 2002, rather than 2004.

A review of the image file wrapper for this application reveals that the reply is present in the application with a date-stamp of receipt thereon of May 24, 2004. However, the paper is entered in the record as received on May 14, 2002.

The record establishes that the reply was timely received. The record has been corrected to show that the reply was received on May 24, 2004.

In view thereof, the Notice of Abandonment is hereby vacated, and the holding of abandonment is withdrawn.

No fee is required on petition under § 1.181.

The application file is being forwarded to Technology Center 3713 for consideration by the examiner of the amendment established to have been timely filed May 24, 2004.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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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WEBB ZIESENHEIM LOGSDON
ORKIN & HANSON, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

COPY MAILED

OCT 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Neuf, et al. :
Application No. 10/093,082 : DECISION GRANTING PETITION
Filed: March 7, 2002 :
Attorney Docket No. 964-020254 :

This is a decision on the petition filed July 4, 2004, under 37 CFR 1.10 requesting that the above-cited application be accorded a filing date of March 7, 2002, rather than the presently accorded filing date of March 3, 2002.

Petitioner alleges that the application was deposited with the Express Mail Service on March 7, 2002. In support of the allegation, the petition is accompanied by a copy of the Express Mail label from the United States Postal Service showing that Express Mail package EL561511718US was deposited with the United States Postal Service, Express Mail Service on March 7, 2002. The tracking number cited is the same number found on the application transmittal sheet that accompanied the original application papers. The evidence is convincing that the application papers were deposited on March 7, 2002.

In view of the above, the petition is granted. The new filing date for the above-cited application is March 7, 2002.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 7, 2002, and for issuance of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571)272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

Mail Date: 06/03/2010

| | | |
|---|---|---|
| **Applicant** | : Sylvain Gingras | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7664028 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/16/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 10/093,092 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 03/05/2002 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2042** 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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DIW Dec-06

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

COPY MAILED
DEC 12 2006
OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Patent No. 7,052,864 | : | |
| Durkop | : | LETTER REGARDING |
| Application No. 10/093,103 | : | PATENT TERM ADJUSTMENT |
| Filed: 03/08/2002 | : | |
| Atty Docket No. 100564-00109 | : | |

This is in response to the "PETITION TO CORRECT PATENT TERM ADJUSTMENT," filed on 14 August, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. § 154(b) be reviewed for accuracy.

The request for correction of the patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance was four hundred six (406) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On 27 December, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is four hundred fifty-six (456) days. Applicants filed the instant "PETITION TO CORRECT PATENT TERM ADJUSTMENT" on 14 August, 2006.

The Office initially determined a patent term adjustment of four hundred fifty-six (456) days based on an adjustment for PTO delay of four hundred eighty-nine (489) days pursuant to 35 U.S.C. § 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by thirty-three (33) days of applicant delay pursuant to 35 U.S.C. § 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b).

A review of the record reveals that Applicants should have been assessed an additional delay of fifty (50) days. A Notice of Allowability was mailed on 27 December, 2005. Applicants then filed, on 23 March, 2006, a request under 37 C.F.R. § 1.48(a) to correct the inventorship in the application. On 11 May, 2006, an examiner's communication was mailed stated that the request to correct inventorship under 37 C.F.R. § 1.48(a) had been denied.

37 C.F.R. § 1.704(c)(10) 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:

(10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed (the lesser period of the number of days 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 other such paper; or Four months).

Therefore, Applicants should have been assessed delay for the period beginning on 23 March, 2006 (the date the request under 37 C.F.R. § 1.48(a) was filed), and ending on 11 May, 2006 (the date an Office communication denying the request under 37 C.F.R. § 1.48(a) was mailed), or 50 days.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **four hundred six (406) days** (489 days of PTO delay, reduced by 83 (33+50) days of Applicant delay). To the extent that patentees are aware of any specific error in the PTA calculation, patentees should so advise the Office.

As this letter was submitted as an advisement to the Office of an error in Patentee's favor, the Office will not assess the $200.00 application fee under 37 C.F.R. § 1.705(b). The Office thanks patentee for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate

of correction indicating that the term of the above-identified patent is extended or adjusted by FOUR HUNDRED SIX (406) days.

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 Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT : 7,052,864 B2

DATED : May 30, 2006

INVENTOR(S) : Axel Durkop 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 (456) days

Delete the phrase "by 456 days" and insert – by 406 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 21 2007

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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

*In re* Patent No. 7,052,864
Issue Date: May 30, 2006
Appl No.: 10/093,103
Filed: March 8, 2002
For: Correction of Inventorship

**DECISION GRANTING PETITION**
*37 CFR 1.324*

This is a decision on the petition under 37 CFR 1.48(a) filed March 23, 2006, to correct inventorship which is being treated under 37 CFR 1.324. The delay in acting on this petition is regretted.

The petition is **GRANTED**.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 21 2007

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**DATE:** September 20, 2007
**TO:** Certificates of Correction Branch
**FROM:** William R. Dixon, Jr.
Technology Center 1600
**SUBJECT:** REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,052,864 as specified on the attached Certificate.

William R. Dixon, Jr.
Technology Center 1600

SEP 21 2007

# UNITED STATES PATENT AND TRADEMARK OFFICE

## CERTIFICATE

Patent No. 7,052,864
Patented: May 30, 2006

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Axel Durkop
Otto Wolfbeis

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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MAY -6 2004

Paper No. 10

In re Application of :
Keith Louis Haughton *et al* : DECISION ON PETITION
Application No. 10/093,104 :
Filed: March 8, 2002 :
Attorney Docket No. 13928

This is a decision on the petition filed on April 5, 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 Office action dated September 2, 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 December 2, 2003. Petitioners further allege that the reply was timely filed by reason of a concurrently filed petition for a two month extension of time together with the extension fee, a date within the period set in the Office letter in question for filing a reply as extended. Petitioners support these allegations by furnishing a copy of the reply, a copy of the petition for extension of time, and a copy of filing receipt for these papers showing that they were in fact received in the Office on December 2, 2003. It is further noted that Office financial records show that the fee for the extension of time was in fact received on December 2, 2003 and applied.

Based upon the evidence furnished by petitioners, 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 Head Supervisory Applications Examiner will have the reply and extension of time endorsed into the application with a filing date of December 2, 2003. The application will then be forwarded to the examiner for action on the reply.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Ralph A. Dowell
Dowell & Dowell, P.C.
Suite 309
1215 Jefferson Davis Hwy.
Arlington, VA 22202

OIPE JC#77
APR 0 5 2004
U.S. PATENT & TRADEMARK OFFICE

#9/dpm 5-6-04 Pet re Abond

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Keith Louis Haughton et al.
Appl. No. : 10/093,104
Filed : 3/8/2002
Title : INDIVIDUAL BEVERAGE CARTON WITH STRAW THEREIN
Grp./A.U. : 3727
Examiner : Gary E. Elkins

Docket No.: 13928

Honorable Commissioner of Patents
Alexandria, VA 22313-1450

REPLY TO NOTICE OF ABANDONMENT

In response to the Notice of Abandonment dated April 2, 2004, the following is submitted:

**Remarks/Arguments** begin on page 2 of this response.

RECEIVED
APR 0 9 2004
TECHNOLOGY CENTER R3700

REMARKS/ARGUMENTS

In reply to the Notice of Abandonment dated April 2, 2004, submitted herewith is a copy of the response to the September 2, 2003 Restriction Requirement, which was timely filed on December 2, 2003 including a request for an extension of time for two months and the required fees. Also submitted is a copy of the date stamped receipt card showing receipt in the US Patent Office mail room on December 2, 2003.

A check of our Bank Statement shows that our Check No. 10792 dated December 2, 2003 in the amount of $210.00 for the two month extension of time fee cleared our bank on December 5, 2003.

As the abandonment of this application was in error, it is respectfully requested that the abandonment be withdrawn.

Should the Examiner or other Patent Office Personnel have any questions with respect to this matter, it would be appreciated if they would contact the undersigned attorney-of-record at the telephone number shown below to further expedite the prosecution of this application.

Respectfully submitted,

DOWELL & DOWELL, P. C.

Ralph A. Dowell/cms

Ralph A. Dowell, Reg. No.: 26,868
Date: April 5, 2004

DOWELL & DOWELL, P. C.
Suite 309, 1215 Jefferson Davis Highway
Arlington, Virginia 22202

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/093,104 | 03/08/2002 | Keith Louis Haughton | 13928 | 1340 |

7590 04/02/2004

Ralph A. Dowell
Dowell & Dowell, P.C.
Suite 309
1215 Jefferson Davis Hwy.
Arlington, VA 22202

| EXAMINER | |
|---|---|
| ELKINS, GARY E | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3727 | |

DATE MAILED: 04/02/2004

MAIL
APR - 5 2004
RECEIVED

Please find below and/or attached an Office communication concerning this application or proceeding.

OIPE
APR 0 5 2004
PATENT & TRADEMARK OFFICE

# Notice of Abandonment

| Application No. | Applicant(s) | |
|---|---|---|
| 10/093,104 | HAUGHTON ET AL. | |
| Examiner | Art Unit | |
| Gary E. Elkins | 3727 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--*

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on *02 September 2003*.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____ ), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☒ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

Gary E. Elkins
Primary Examiner
Art Unit: 3727

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.



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OFFICE OF PETITIONS

GEORGE S. BLASIAK
WALL MARJAMA & BILINSKI LLP
SUITE 400
101 SOUTH SALINA STREET
SYRACUSE NY 13202

In re Application of :
Robert J. Hennick et al :
Application No. 10/093,135 : ON PETITION
Filed: March 7, 2002 :
Attorney Docket No. 283-309.14 :

This is a decision on the petition, filed November 17, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

**Petitioner is advised that the issue fee paid on September 6, 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]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

---

[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 examiner of Technology Center AU 2876 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
**WALL MARJAMA & BILINSKI LLP**
**250 SOUTH CLINTON STREET, SUITE 300**
**SYRACUSE, NY 13202**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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JUL 12 2004

Paper No. 8

In re Application of
Lothar Wille
Application No. 10/093,139
Filed: March 6, 2002
Attorney Docket No. KN-39

: DECISION ON PETITION

This is a decision on the petition filed on March 30, 2004 by which petitioner requests withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the Office action dated August 14, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that the application is not abandoned because a reply to the Office letter in question was not filed due to the fact that the Office letter was not received. Petitioner has supported this allegation in a manner which satisfies the requirements of the Notice published at 1156 OG 53 which establishes the minimum requirements for an evidentiary showing in support of an allegation of nonreceipt of Office correspondence. See also MPEP § 711.03(c), subsection A, entitled "Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action", (8th Edition, Rev. 2, May 2004). Based upon this evidence, it is clear that this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner to re-mail paper No.4, including all attachments and copies of references, if any. Thereafter, the application will be forwarded to the examiner for appropriate.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Friedrich Kueffner
317 Madison Avenue
Suite 910
New York, NY 10117

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OSHA LIANG LLP
1221 McKINNEY STREET, SUITE 2800
HOUSTON, TX 77010

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OFFICE OF PETITIONS

In re Application of :
Hiroaki Kukita et al :
Application No. 10/093,147 : DECISION GRANTING PETITION
Filed: March 7, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 07700.009001 :

This is a decision on the petition, filed August 3, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on April 19, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2817 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), 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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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MAY 11 2006

OFFICE OF PETITIONS

In re Application of :
Scheuermann :
Application No. 10/093,156 : ON PETITION
Filed: March 5, 2002 :
Attorney Docket No. 021202-000700US :
For: HARDWARE IMPLEMENTATION OF
THE SECURE HASH STANDARD

This is a decision on the petition, filed April 11, 2006 (certificate of mailing date April 7, 2006), under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the September 2, 2005 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on December 3, 2005. No Notice of Abandonment has been mailed.

Applicant has submitted an amendment in reply to the September 2, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the September 2, 2005 non-final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 2134 for consideration of the amendment filed on April 11, 2006 (certificate of mailing date April 7, 2006).

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of :
Dezonno :
Application No.: 10/093,192 :
Filing Date: March 7, 2002 :
Docket No.: 6065/83767 :
For: Method And System For Adding Text Data To Data Communication Sessions :

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on August 17, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed October 25, 2005, which set a shortened statutory period for reply of three (3) months. The application went abandoned at midnight on April 25, 2006. No Notice of Abandonment was mailed.

Petitioner has met the requirements for revival under §1.137(b). Petitioner submitted the required reply in the form of a Request for Continued Examination (and fee), paid the petition fee, and made the statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Since this utility application was filed after June 8, 1995, no terminal disclaimer is required. Accordingly, the petition is granted under §1.137(b).

This application is being referred to Technology Center 2142 for continued processing.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
*on behalf of*
Office of Petitions
Telephone: 571-272-3283
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
www.uspto.gov

Lawrence E. Davis
114 Rapid River Trail
Greenville, SC 29601-5927

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AUG 0 8 2002

OFFICE OF PETITIONS

In re Application of :
Cristian Militaru and :
Lawrence E. Davis : LETTER
Application No. 10/093,212 :
Filed: March 7, 2002 :
Attorney Docket No. 01-0237 :
Title: Optical fiber cable with :
interstitial support members :

Dear Mr. Davis:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ALCOA INC
ALCOA TECHNICAL CENTER
100 TECHNICAL DRIVE
ALCOA CENTER PA 15069-0001

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

ALCOA INC
ALCOA TECHNICAL CENTER
100 TECHNICAL DRIVE
ALCOA CENTER PA 15069-0001

COPY MAILED

AUG 0 8 2002

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Cristian Militaru and | : | |
| Lawrence E. Davis | : | |
| Application No. 10/093,212 | : | |
| Filed: March 7, 2002 | : | |
| Attorney Docket No. 01-0237 | : | DECISION ACCORDING STATUS |
| Title: Optical fiber cable with interstitial support members | : | UNDER 37 C.F.R. §1.47(a) |

This is in response to the petition, filed June 11, 2002 (certificate of mailing May 29, 2002), under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on March 7, 2002, without an executed oath or declaration. Cristian Militaru and Lawrence E. Davis were named as joint inventors. Accordingly, on March 29, 2002, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration, and the surcharge under §1.16(e) for late filing. This Notice set a two-month period for reply with extensions of time obtainable under §1.136(a).

In reply, rule 47 applicants timely filed the instant petition, petition fee ($130), and surcharge under §1.16(e)($130). Applicants assert that status under §1.47 is proper because inventor Davis refuses to join in the application. In support thereof, applicants submitted *inter alia* a declaration of practitioner Tracey D. Beiriger with documentary evidence of the presentation of the application papers for signature to inventor Davis.

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(s).

By declaration of Tracey D. Beiriger and supporting documentary evidence, applicants have shown 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, and that inventor Davis has refused to join in the application. Accompanying the petition is a declaration executed by joint inventor Militaru on behalf of himself and on behalf of non-signing inventor Davis. Moreover, the petition submitted included the petition fee and a statement of the last known address of inventor Davis.

This declaration filed June 11, 2002 has been reviewed and found in compliance with §1.63. The petition likewise is in compliance with §1.47.

In view thereof, this application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 2874 for examination.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE M. Yu

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/093,223

Paper No.: _____

DATE : 8/9/05

TO SPE OF : ART UNIT 3728

SUBJECT : Request for Certificate of Correction on Patent No.: 6814237

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:**

No C of C in IFW. Correction of Inventorship approved.

SPE

3728
Art Unit

OIPE JC112 DEC 03 2004 PATENT & TRADEMARK OFFICE

12/06/04

Correction of Inventorship Approved.

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**
**(Attorney Docket No. 006072.00001)**

| | | | |
|---|---|---|---|
| In re: U.S. Patent No. | 6,814,237 | ) | |
| Inventor: | Sara L. Gorvett | ) | Application No. 10/093,223 |
| Issue Date: | November 9, 2004 | ) | Filed: March 7, 2002 |
| For: | Organizer For Cosmetics | ) | |

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ATTN: Certificate of Correction Branch

**REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. 1.324**

Dear Sir:

Through no deceptive intent on his part, Mr. Austin Gorvett was not named as an inventor on the aforementioned issued patent in error. Pursuant 37 C.F.R. § 1.324 and 35 U.S.C. § 256, Applicant respectfully requests that a Certificate of Correction correcting such error be issued. This request complies with all requirements in the applicable patent statutes and regulations.

Accompanying this request are the following, as required by 37 C.F.R.§ 1.324:

- A statement of Mr. Austin Gorvett that this omission occurred in error and without deceptive intent on his part;
- a statement of Ms. Sara Gorvett agreeing to the change of inventorship; and
- the fee required under 37 C.F.R. § 1.20(b).

A statement under 37 C.F.R. § 1.324(b)(3) is not required because neither of the parties

12/07/2004 MAHMED1 00000056 190733 6814237
01 FC:1464 130.00 DA

submitting statements under paragraphs (b)(1) or (b)(2) of that section have assigned their rights to the patent to another party.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Date: Nov. 30, 2004

By: _____
Aseet Patel
Registration No. 53,874

Ten South Wacker Drive
Suite 3000
Chicago, Illinois 60606-7407
(312) 463-5000

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**
**(Attorney Docket No. 006072.00001)**

| | | | |
|---|---|---|---|
| In re: U.S. Patent No. | 6,814,237 | ) | |
| Inventor: | Sara L. Gorvett | ) | Application No. 10/093,223 |
| Issue Date: | November 9, 2004 | ) | Filed: March 7, 2002 |
| For: | Organizer For Cosmetics | ) | |

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ATTN: Certificate of Correction Branch

**STATEMENT OF LACK OF DECEPTIVE INTENT**

Pursuant the requirements of 37 C.F.R. § 1.324(b)(1), I, Mr. Austin Gorvett, state the following:

The inventorship error of failing to include Mr. Austin Gorvett as an inventor of the aforementioned patent occurred without any deceptive intention on the part of Mr. Austin Gorevett.

Respectfully submitted,

Date: 11-21-04

By: _____
Austin Gorvett

OIPE JC112 DEC 03 2004 PATENT & TRADEMARK OFFICE

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**
**(Attorney Docket No. 006072.00001)**

| | | | |
|---|---|---|---|
| In re: U.S. Patent No. | 6,814,237 | ) | |
| Inventor: | Sara L. Gorvett | ) | Application No. 10/093,223 |
| Issue Date: | November 9, 2004 | ) | Filed: March 7, 2002 |
| For: | Organizer For Cosmetics | ) | |

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ATTN: Certificate of Correction Branch

**STATEMENT OF INVENTOR**

Pursuant the requirements of 37 C.F.R. § 1.324(b)(2), I, Ms. Sara Gorvett, as a current inventor state the following:

I agree to the change of inventorship in the aforementioned patent by adding Mr. Austin Gorvett as an inventor.

Respectfully submitted,

Date: 11-19-04

By: Sara L Gorvett
Sara Gorvett

PE
DEC 03 2004
PATENT & TRADEMARK OFFICE

**CERTIFICATE OF MAILING**
(PATENT APPLICATION)

Express Mail No. EV378040218US

Deposited: December 3, 2004

I hereby certify that the attached correspondence, identified below, is being deposited with the United States Postal Service as "Express Mail Post Office to Addressee" under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 - Attention: Certificate of Correction Branch.

By: _____

Application of: Sara L. Gorvett

U.S. Patent No.: 6,814,237

Issue Date: November 9, 2004

Application No.: 10/093,223

Filing Date: March 7, 2002

Title: Organizer For Cosmetics

Transmitted herewith are the following documents:

- X Transmittal Form (1 page) in duplicate
- X Fee Transmittal Form (1 page) in duplicate
- X Request for Certificate of Correction Under 37 C.F.R. 1.324 (2 pages)
- X Statement of Lack of Deceptive Intent (1 page)
- X Statement of Inventor
- X Return Postcard

Attorney Docket: 006072.00001

OIPE
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PATENT & TRADEMARK OFFICE

PTO/SB/21 (02-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# TRANSMITTAL FORM

*(to be used for all correspondence after initial filing)*

| | |
|---|---|
| Application Number | 10/093,223 |
| Filing Date | March 7, 2002 |
| First Named Inventor | Sara L. Gorvett |
| Art Unit | |
| Examiner Name | |
| Total Number of Pages in This Submission | |
| Attorney Docket Number | 006072.00001 |

**ENCLOSURES** ***(check all that apply)***

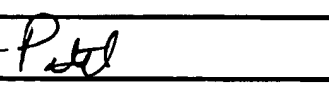
- ☒ Fee Transmittal Form
- ☐ Fee Attached
- ☐ Amendment / Reply
- ☐ After Final
- ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application
- ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) ____
- ☐ After Allowance Communication to Group
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to Group **(Appeal Notice, Brief, Reply Brief)**
- ☐ Proprietary Information
- ☐ Status Letter
- ☒ Other Enclosure(s) *(please identify below)*:
  Request for certificate of correction; Statement of Lack of Deceptive Intent; and Statement of Inventor

Remarks

**Being filed via Express Mail No.: EV378040218US**

**The Commissioner is hereby authorized to charge any deficiencies in payment or credit any overpayment to our Deposit Account 19-0733.**

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

| | |
|---|---|
| Firm or Individual name | Aseet Patel |
| Signature |  |
| Date | December 2, 2004 |

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States 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.

| | | | |
|---|---|---|---|
| Typed or printed name | | | |
| Signature | | Date | |

This collection of information is required by 37 CFR 1.5. 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 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.

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PTO/SB/17 (10-04v2)
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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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# FEE TRANSMITTAL for FY 2005

*Effective 10/01/2004. Patent fees are subject to annual revision.*

OIPE DEC 03 2004 PATENT & TRADEMARK OFFICE

☐ Applicant claims small entity status. See 37 CFR 1.27

**TOTAL AMOUNT OF PAYMENT** ($) 130

| *Complete if Known* | |
|---|---|
| Application Number | 10/093,223 |
| Filing Date | March 7, 2002 |
| First Named Inventor | Sara L. Gorvett |
| Examiner Name | |
| Art Unit | |
| Attorney Docket No. | 006072.00001 |

## METHOD OF PAYMENT *(check all that apply)*

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number: 19-0733

Deposit Account Name: Banner & Witcoff, LTD.

**The Director is authorized to:** *(check all that apply)*
☒ Charge fee(s) indicated below ☒ Credit any overpayments
☒ Charge any additional fee(s) or any underpayment of fee(s)
☐ Charge fee(s) indicated below, **except for the filing fee** to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

| Large Entity Fee Code | Large Entity Fee ($) | Small Entity Fee Code | Small Entity Fee ($) | Fee Description | Fee Paid |
|---|---|---|---|---|---|
| 1001 | 790 | 2001 | 395 | Utility filing fee | |
| 1002 | 350 | 2002 | 175 | Design filing fee | |
| 1003 | 550 | 2003 | 275 | Plant filing fee | |
| 1004 | 790 | 2004 | 395 | Reissue filing fee | |
| 1005 | 160 | 2005 | 80 | Provisional filing fee | |

SUBTOTAL (1) ($) 0

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

| | | | Extra Claims | | Fee from below | = | Fee Paid |
|---|---|---|---|---|---|---|---|
| Total Claims | | -20 ** | = 0 | X | | = | 0 |
| Independent Claims | | -3 ** | = 0 | X | | = | 0 |
| Multiple Dependent | | | | X | | = | 0 |

| Large Entity Fee Code | Large Entity Fee ($) | Small Entity Fee Code | Small Entity Fee ($) | Fee Description |
|---|---|---|---|---|
| 1202 | 18 | 2202 | 9 | Claims in excess of 20 |
| 1201 | 88 | 2201 | 44 | Independent claims in excess of 3 |
| 1203 | 300 | 2203 | 150 | Multiple dependent claim, if not paid |
| 1204 | 88 | 2204 | 44 | ** Reissue independent claims over original patent |
| 1205 | 18 | 2205 | 9 | ** Reissue claims in excess of 20 and over original patent |

SUBTOTAL (2) ($) 0

**or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

| Large Entity Fee Code | Large Entity Fee ($) | Small Entity Fee Code | Small Entity Fee ($) | Fee Description | Fee Paid |
|---|---|---|---|---|---|
| 1051 | 130 | 2051 | 65 | Surcharge - late filing fee or oath | |
| 1052 | 50 | 2052 | 25 | Surcharge - late provisional filing fee or cover sheet. | |
| 1053 | 130 | 1053 | 130 | Non-English specification | |
| 1812 | 2,520 | 1812 | 2,520 | For filing a request for *ex parte* reexamination | |
| 1804 | 920* | 1804 | 920* | Requesting publication of SIR prior to Examiner action | |
| 1805 | 1,840* | 1805 | 1,840* | Requesting publication of SIR after Examiner action | |
| 1251 | 110 | 2251 | 55 | Extension for reply within first month | |
| 1252 | 430 | 2252 | 215 | Extension for reply within second month | |
| 1253 | 980 | 2253 | 490 | Extension for reply within third month | |
| 1254 | 1,530 | 2254 | 765 | Extension for reply within fourth month | |
| 1255 | 2,080 | 2255 | 1,040 | Extension for reply within fifth month | |
| 1401 | 340 | 2401 | 170 | Notice of Appeal | |
| 1402 | 340 | 2402 | 170 | Filing a brief in support of an appeal | |
| 1403 | 300 | 2403 | 150 | Request for oral hearing | |
| 1451 | 1,510 | 1451 | 1,510 | Petition to institute a public use proceeding | |
| 1452 | 110 | 2452 | 55 | Petition to revive – unavoidable | |
| 1453 | 1,370 | 2453 | 685 | Petition to revive – unintentional | |
| 1501 | 1,370 | 2501 | 685 | Utility issue fee (or reissue) | |
| 1502 | 490 | 2502 | 245 | Design issue fee | |
| 1503 | 660 | 2503 | 330 | Plant issue fee | |
| 1460 | 130 | 1460 | 130 | Petitions to the Commissioner | |
| 1807 | 50 | 1807 | 50 | Processing fee under 37 CFR 1.17 (q) | |
| 1806 | 180 | 1806 | 180 | Submission of Information Disclosure Stmt | |
| 8021 | 40 | 8021 | 40 | Recording each patent assignment per property (times number of properties) | |
| 1809 | 790 | 2809 | 395 | Filing a submission after final rejection (37 CFR § 1.129(a)) | |
| 1810 | 790 | 2810 | 395 | For each additional invention to be examined (37 CFR § 1.129(b)) | |
| 1801 | 790 | 2801 | 395 | Request for Continued Examination (RCE) | |
| 1802 | 900 | 1802 | 900 | Request for expedited examination of a design application | |

Other fee (specify) Processing Fee for correction of inventorship 130.00

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) ($) 130

| SUBMITTED BY | | | | Complete *(if applicable)* | |
|---|---|---|---|---|---|
| *Name (Print/Type)* | Aseet Patel | *Registration No. (Attorney/Agent)* | 53,874 | *Telephone* | 312-463-5000 |
| *Signature* | Aseet Patel | | | *Date* | December 3, 2004 |

**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.**

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, 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.**

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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. 20

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025

COPY MAILED

FEB 18 2004

OFFICE OF PETITIONS

In re Application of
Randy Ryals et al
Application No. 10/093,290
Filed: March 5, 2002
Attorney Docket No. 82771P114C2

:DECISION ON PETITIONS
:UNDER 37 CFR 1.78(a)(3)
:AND 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 16, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 08/536,099, filed September 29, 1995 as set forth in the amendment filed August 22, 2003. As discussed with petitioner (William W. Schaal) on February 17, 2004, the petition is also being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the application from issue after the payment of the August 22, 2003 issue fee.

The petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.313(c)(2) are **GRANTED**.

Turning first 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 only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;[1]

---

[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

(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 March 5, 2002, and was pending at the time of filing of the instant petition. A reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the above-noted, prior-filed application was submitted during the pendency of the instant nonprovisional application. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

In reviewing the application file, it is noted that the amendment filed on August 22, 2003 to claim priority benefits under 35 U.S.C. § 120 to prior-filed Application No. 08/536,099 was approved and entered by the Examiner on January 13, 2004. However, since this application was filed after November 29, 2000, the Examiner was without authority to approve and enter an amendment to claim priority benefits under 35 U.S.C. § 120 absent a grantable petition under 37 CFR 1.78(a)(3). Nevertheless, the Examiner's entry of the August 22, 2003 amendment seeking to claim priority benefit to prior-filed nonprovisional Application No. 08/536,099 is hereby ratified in view of the granting of the instant petition under 37 CFR 1.78(a)(3).

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

In a further review of the application file, it is noted that a first Notice of Allowability and Notice of Allowance and Fee(s) Due were mailed on August 12, 2003.

---

applications may be made when appropriate (*see* § 1.14).

Thereafter, on August 22, 2003, the issue fee was paid. Subsequently, on September 8, 2003, petitioner herein filed a request for continued examination (RCE) pursuant to the provisions of 37 CFR 1.114 and an Information Disclosure Statement. However, the filing of an RCE was improper in view of the prior payment of the issue fee on August 22, 2003, and a notice to that effect should have been mailed by the Office. Instead, the Office processed the RCE and considered the IDS, and thereafter mailed a second Notice of Allowability and Notice of Allowance and Fee(s) Due on December 1, 2003. The Examiner was without authority to further prosecute this application after payment of the issue fee and filing of the RCE, absent a grantable petition under 37 CFR 1.313(c)(2). Therefore, in order to render the RCE filed on September 8, 2003 as a proper request under 37 CFR 1.114, and as discussed with petitioner herein on February 17, 2004, the petition under 37 CFR 1.78(a)(3) will also be considered as a petition under 37 CFR 1.313(c)(2) to withdraw this application from issue after payment of the issue fee. Accordingly, this application is withdrawn from issue *nunc pro tunc* and the actions taken by the Examiner subsequent to the filing of the RCE are hereby ratified.

As authorized, the $130 fee required for the petition under 37 CFR 1.313(c)(2) will be charged to petitioner's Deposit Account No. 02-2666.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being returned to Publishing Division to await a reply to the Notice of Allowance and Issue Fee(s) Due mailed December 1, 2003. Failure to timely reply will result in the abandonment of this application.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

File copy

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

| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 10/093,290 | 03/05/2002 | 2141 | 1922 | 82771P114C2 | 4 | 48 | 3 |

**CONFIRMATION NO. 2505**

**CORRECTED FILING RECEIPT**

*OC000000011915375*

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

Date Mailed: 02/18/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

**Applicant(s)**

Randy Ryals, Menlo Park, CA;
Jeffrey Prince, Sunnyvale, CA;

**Domestic Priority data as claimed by applicant**

This application is a CON of 08/896,485 07/17/1997 PAT 6,427,185
which is a CON of 08/536,099 09/29/1995 ABN

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 03/29/2002

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

METHOD AND APPARATUS FOR MANAGING THE FLOW OF DATA WITHIN A SWITCHING DEVICE

**Preliminary Class**

370

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# LICENSE FOR FOREIGN FILING UNDER
# Title 35, United States Code, Section 184
# Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 24

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

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APR 14 2004

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Randy Ryals, et al. :
Application No. 10/093,290 :
Filed: March 5, 2002 :
Attorney Docket No. 82771P114C2 :

This is a decision on the petition, filed April 14, 2004, under 37 CFR(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on March 8, 2004, using a Certificate of Mailing under 37 CFR 1.8 dated March 1, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center AU 2141 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 indicted as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language on 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.

McCormcik, Paulding 7 Huber
City Place II
185 Asylum Street
Hartford, CT 06103-3402

COPY MAILED

OCT 0 5 2004

OFFICE OF PETITIONS

In re Application of:
Peter Etmueller
Application No. 10/093,262
Filed: March 6, 2002
Title of Invention:
PROJECTILE AND METHOD FOR PRODUCING IT

DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision in response to the petition under 37 CFR 1.137(b), filed September 2, 2004, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed April 15, 2004, which set a non-extendable statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 16, 2004. A Notice of Abandonment was mailed on August 16, 2004.

With the instant petition Applicant has submitted the issue fee.

An electronic message is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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NOV 3 0 2005

**OFFICE OF PETITIONS**

In re Patent No. 6,964,113 :
Issue Date: November 15, 2005 :
Application No. 10/093,319 : ON PETITION
Filed: March 6, 2002 :
Attorney Docket Number: FAO-0099 :

This is a decision regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 7, 2005.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28( c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. 154 F.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

This file is being forwarded to the Files Repository.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER, CO 80202-5647

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MAR 2 9 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Patrick Warner, et al. | : | |
| Application No. 10/093,326 | : | DECISION GRANTING PETITION |
| Filed: March 6, 2002 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 923/US/5 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 26, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on February 22, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 3764 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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

Corporate Patent Counsel
U.S. Philips Corporation
580 White Plains Road
Tarrytown, NY 10591

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JUL 2 3 2002

OFFICE OF PETITIONS

In re Application of :
Trajkovic et al. :
Application No. 10/093,331 : DECISION ON PETITION
Filed: March 7, 2002 :
Attorney Docket No. 0200127 :

This is a decision on the petition filed July 12, 2002, which is being treated as a petition under 37 CFR 1.181 alleging that the Notice mailed May 3, 2002, was mailed in error.

The petition is **dismissed**.

The application was filed on March 7, 2002.

The transmittal sheet states a title of, "Method and System for Fee-Based Commercial-Free Television Viewing."

The declaration states that the inventors have reviewed the specification for the invention entitled, "Method and System for Fee-Based Commercial-Free Television Viewing."

The specification in the file is entitled, "Automatic Signature-Based Spotting, Learning and Extracting of Commercials and Other Video Content." The specification contains claims which do not commence on a separate sheet. The specification refers to a Figure 3 but the file does not contain a Figure 3.

On May 3, 2002, the Office of Initial Patent Examination mailed a "Notice to File Corrected Application Papers" stating that the application had been accorded a filing date of March 7, 2002, and advising applicants that the claims must commence on a separate sheet and that Figure 3 appeared to have been omitted.

Petitioner has failed to establish that the Notice was mailed in error.

Petitioner should note that if corrected papers, and the appropriate extension of time, are not timely filed in response to the Notice, the application will be deemed abandoned. Petitioner should file a new declaration since the declaration submitted does not apply to the specification submitted with the original application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

Corporate Patent Counsel
U.S. Philips Corporation
580 White Plains Road
Tarrytown, NY 10591

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NOV 0 4 2002

OFFICE OF PETITIONS

In re Application of :
Trajkovic et al. :
Application No. 10/093,331 : DECISION ON PETITION
Filed: March 7, 2002 :
Attorney Docket No. 0200127 :

This is a decision on the petition filed September 23, 2002, which is being treated as a petition under 37 CFR 1.53 alleging that the specification entitled "Method and System for Fee-Based Commercial-Free Television Viewing" was submitted as part of the instant application on March 7, 2002.

The petition is **dismissed**.

The application was filed on March 7, 2002.

The transmittal sheet states a title of, "Method and System for Fee-Based Commercial-Free Television Viewing."

The declaration states that the inventors have reviewed the specification for the invention entitled, "Method and System for Fee-Based Commercial-Free Television Viewing."

The specification in the file is entitled, "Automatic Signature-Based Spotting, Learning and Extracting of Commercials and Other Video Content." The specification contains claims which do not commence on a separate sheet. The specification refers to a Figure 3 but the file does not contain a Figure 3.

On May 3, 2002, the Office of Initial Patent Examination mailed a "Notice to File Corrected Application Papers" stating that the application had been accorded a filing date of March 7, 2002, and advising applicants that the claims must commence on a separate sheet and that Figure 3 appeared to have been omitted.

Petitioner has failed to establish that the Notice was mailed in error.

Petitioner has submitted a postcard receipt that lists "Corrected Appln. Papers" being submitted on July 12, 2002. However, the Corrected Papers will not be entered because they apply to a specification other than the specification for the instant application. Petitioner has not provided a postcard proving that the specification entitled "Method and System for Fee-Based Commercial-Free Television Viewing" was filed on March 7, 2002.

Petitioner should note that if corrected papers which pertain to the specification entitled "Automatic Signature-Based Spotting, Learning and Extracting of Commercials and Other Video Content," and the appropriate extension of time, are not timely filed in response to the Notice, the application will be deemed abandoned. Petitioner should file a new declaration since the declaration submitted does not apply to the specification submitted with the original application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 9

Corporate Patent Counsel
U.S. Philips Corporation
580 White Plains Road
Tarrytown, NY 10591

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DEC 1 1 2002

OFFICE OF PETITIONS

In re Application of :
Trajkovic et al. :
Application No. 10/093,331 : DECISION ON PETITION
Filed: March 7, 2002 :
Attorney Docket No. US 20017 :

This is a decision on the renewed petition filed September 23, 2002, which is being treated as a petition under 37 CFR 1.53 to establish that the specification entitled "Method and System for Fee-Based Commercial-Free Television Viewing" was submitted as part of the instant application on March 7, 2002.

The petition is **granted**.

The application was filed on March 7, 2002.

A specification entitled "Method and System for Fee-Based Commercial-Free Television Viewing" was submitted as part of the instant application on March 7, 2002. An IDS was filed along with the application. The IDS included a copy of application no. 09/417,288 which is entitled, "Automatic Signature-Based Spotting, Learning and Extracting of Commercials and Other Video Content."

The Office of Initial Patent Examination misplaced the specification entitled "Method and System for Fee-Based Commercial-Free Television Viewing."

The application was mistakenly processed with the copy of the specification from application no. 09/417,288 entitled "Automatic Signature-Based Spotting, Learning and Extracting of Commercials and Other Video Content."

As a result of the application being processed with the incorrect specification, a "Notice to File Corrected Application Papers" was mailed. The Notice is hereby vacated.

Petitioner has filed two prior petitions in an attempt to correct the situation.

A decision dismissing the second petition was mailed on November 4, 2002.

Subsequent to November 4, 2002, but prior to the instant petition being matched with the file, the original specification entitled "Method and System for Fee-Based Commercial-Free Television Viewing" was matched with the file. The record fails to indicate where the specification was previously located, when the specification was located, and when the specification was forwarded to the Office of Petitions. The specification clearly belongs to the instant application in so far as the first page bears an official Office stamp stating, "10/093331 . . . 03/07/02."

The application will be processed with the specification entitled, "Method and System for Fee-Based Commercial-Free Television Viewing."

The two petition fees of $130 which have been charged to petitioner's deposit account will be credited to the deposit account.

Petitioner should note that papers are missing from the copy of application no. 09/417,288 which accompanied the IDS. Specifically, the Office cannot find a copy of the drawings for that application. Petitioner may wish to supplement the IDS by filing a copy of the drawings from the application or by filing a copy of the patent which issued from the application on October 22, 2002.

The file is now being sent to the Office of Initial Patent Examination to process the application using the application papers filed on March 7, 2002, including the specification entitled, "Method and System for Fee-Based Commercial-Free Television Viewing."

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JJGJr: 11-03

Paper No: 8

AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL429
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 7599
LOVELAND, CO 80537-0699

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NOV 1 4 2003

OFFICE OF PETITIONS

In re Application of :
Amano :
Application No. 10/093,342 : DECISION ON PETITION
Filed: 6 March, 2003 :
Attorney Docket No.: 10011339-1 :

This is a decision on the petition filed on 10 May, 2002, and resubmitted via FAX on 3 October, 2003, to correct the Express Mail filing date under 37 C.F.R. §1.10, and seeking for the above-identified application a filing date of 6 March, 2002, instead of the presently accorded filing date of 7 March, 2002.

The file and original petition were not received into Petitions until this writing, and the Office regrets the delay in addressing this matter.

The petition is **GRANTED**, the petition fee is waived.

NOTE: Docketing of a Status Inquiry at six- (6-) month intervals following the filing of replies/petitions may be prudent practice to demonstrate diligence when lengthy delays subsequently occur in matters such as this.

## BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was received on 8 March, 2002, and given a filing date of 7 March, 2002; and

- Petitioner Edouard Garcia (Reg. No. 38,461) submits his petition and statement, and recites that attachments/enclosures include a copy of the application transmittal reflecting the US Postal Service (USPS) Express Mail Label No. ET649891803US;

- Petitioner also alleges that he personally deposited the instant application with the above referenced Express Mail Label number in an Express Mail drop box prior to the last scheduled pickup--i.e., 5:00 p.m.--with "Express Mail Post Office to Addressee" service;

- Petitioner further alleges that action is corroborated by copies submitted of a permanent record of Petitioner's office "that came into being after the deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS" in the form of a FAX Petitioner sent to his client and confirmed in:

  --a copy of the running record of FAX-transmissions confirmation record submitted by Petitioner as a part of the record;

  --with a copy of the FAX coversheet; and

  --a copy of the first page of the application bearing the (USPS) Express Mail Label No. ET649891803US.

## CONCLUSION

While the FAX transmission record does not itself reflect the Express Mail Label number, it does reflect Petitioner's docket number, which in turn is tied to the Express Mail Label No. ET649891803US on the application transmittal/coversheet which is part of the FAX record.

(Petitioner is cautioned, however, that the Office considers the more conventional Express Mail log to be a more readily recognized record-keeping system to support allegations under 37 C.F.R. §1.10.)

Therefore, as to the instant nonprovisional application, Application No. 10/093,342, the Office of Initial Patent Examination is specifically instructed to:

- assign a filing date of 6 March, 2002; and

- issue a filing receipt specifying the filing date as that of 6 March, 2003.

The instant application is being forwarded to OIPE to be handled as set forth above before being forwarded to Publications Branch to be processed into a patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

cc:
EDOUARD GARCIA, ESQ.
544 EMERALD AVENUE
SAN CARLOS, CA 94070

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

MAILED

AUG 22 2003

OFFICE OF DIRECTOR
GROUP

The Swernofsky Law Group
P.O. Box 390013
Mountain View, CA 94039-0013

In re Application of :
Avi Messica et al. :
Application No. 10/093,369 : DECISION ON PETITION
Filed: March 6, 2002 : TO MAKE SPECIAL
Attorney Docket No. 223.1002.01 :

This is a decision on the petition under 37 C.F.R. § 1.102, filed February 21, 2003, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) a petition fee of $130.00, (b) a statement that all claims are directed a single invention and an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, or professional searchers, etc., the field of search was also provided, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

For the above stated reasons, the petition is GRANTED.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TAKEUCHI & TAKEUCHI
1700 DIAGONAL ROAD, SUITE 310
ALEXANDRIA, VA 22314

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FEB 28 2005

OFFICE OF PETITIONS

In re Application of :
Yasuo Tanaka, et al. :
Application No. 10/093,397 : ON PETITION
Filed: March 11, 2002 :
Attorney Docket No. B0105T :

This is a decision on the petition under 37 CFR 1.137(b), filed October 14, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed July 1, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 2, 2004.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), it will be interpreted as the required statement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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.

The Change of Correspondence Address has been accepted and recorded.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application file is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/13/09

TO SPE OF : ART UNIT 2169 Truong, Cam Y

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/093425 Patent No.: 7035870

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:** Amendment / CoC Changes the scope of the claimed Invention

SPE 2169 Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

**UNITED STATES DEPARTMENT OF COMMERCE**
**Patent and Trademark Office**
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

5/14/2010

Patent No. :7035870
Inventor(s) :McGuire et al.
Issued :4/25/2006
Title :OBJECT LOCKING IN A SHARED VM ENVIRONMENT
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that the cofc changes the scope of the claimed invention. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

David A. Mims Jr.
11400 Burnet Road
Austin, Texas 78758

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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AMB 05-03

Paper No. 7

ABELMAN, FRAYNE & SCHWAB
Attorneys at Law
150 East 42nd Street
New York, NY 10017

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MAY 02 2003

OFFICE OF PETITIONS

In re Application :
Chinaraju, et al. : ON PETITION
Application No. 10/093,447 :
Filed: March 7, 2002 :
Attorney Docket No.: 205,551 :

This is a decision on the petition under 37 C.F.R. § 1.137(a), filed January 9, 2003 to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R.§ 1.137(a)." This is not a final agency decision.

This application became abandoned June 9, 2002 for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed April 8, 2002. The Notice set a two (2) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. This decision precedes Notice of Abandonment.

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition lacks item (3) set forth above. Petitioner has failed to present a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(a) was unavoidable.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 C.F.R. 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533 at 538, 213 U.S.P.Q. (BNA) 977 at 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 U.S.P.Q. 2d 1130 (N.D. Ind. 1987).

Petitioner alleges non-receipt of the Notice.

In the absence of any irregularity in the mailing of the Notice, there is a strong presumption that the Notice was properly mailed to the correspondence address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the inventor stating that the Office communication was not received by the inventor and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in the inventor's statement. See, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The instant petition is not accompanied by corroborative evidence to support the allegation that the Notice was not received. Any renewed petition must be accompanied by evidence to sufficiently establish the Notice was not received at the correspondence address of record at the time of mailing of the Notice.

**ALTERNATE VENUE**

Petitioner may wish to consider filing a petition stating that the entire delay was unintentional. Petitioner's attention is directed to 37 C.F.R. § 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 C.F.R. § 1.137(b) must be accompanied by the required petition fee, statement of unintentional delay, reply, and, if applicable, a terminal disclaimer (and fee).

The filing of a petition under 37 C.F.R. § 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 C.F.R. § 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 C.F.R. § 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

By facsimile: (703) 308-6916

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0210.

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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AMB 03-03

Paper No. 9

ABELMAN, FRAYNE & SCHWAB
Attorneys at Law
150 East 42nd Street
New York, NY 10017

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MAY 2 2 2003

OFFICE OF PETITIONS

In re Application :
Chinaraju, et al. : ON PETITION
Application No. 10/093,447 :
Filed: March 7, 2002 :
Attorney Docket No.: 205,551 :

This is a decision on the renewed petition under 37 C.F.R. § 1.137(a), filed May 12, 2003 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned June 9, 2002 for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed April 8, 2002. The Notice set a two (2) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. This decision precedes Notice of Abandonment. A petition under 37 CFR 1.137(a) was filed January 9, 2003 and dismissed May 2, 2003.

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant renewed petition has been examined and found in compliance with the requirements of 37 CFR 1.137(a). Accordingly, the failure to timely respond to the Notice is deemed to have been unavoidably delayed.

This application is being forwarded the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Alesia M. Brown at 703-305-0310.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 11

IVOR R. ELRIFI, ESQ.
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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JAN 23 2003

OFFICE OF PETITIONS

In re Application of :
Muralidhara Padigaru et al :
Application No. 10/093,463 : DECISION ON PETITION
Filed: March 8, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 21402-290 A (CURA 590 AT) :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 23, 2002, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional applications.

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 surcharge set forth in 37 CFR 1.17(t);

**(2)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(i) and the date the claim was filed was unintentional; and

**(3)** the reference to the prior filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. *See* 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(iii). 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 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 applications 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 the prior-filed provisional applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior applications 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 applications. In order for the instant application to be entitled to the benefit of the prior applications, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

The application is being forwarded to Technology Center AU 1631 for processing the amendment filed October 23, 2002, for consideration by the examiner of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications, and for mailing of a corrected Filing Receipt which includes the priority claim to the prior-filed provisional applications.

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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KENYON & KENYON
1500 K STREET, N.W.
SUITE 700
WASHINGTON, DC 20005

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**MAR 2 8 2005**

**OFFICE OF PETITIONS**

In re Application of :
Toshio Fuwa :
Application No. 10/093,537 : ON PETITION
Filed: March 11, 2002 :
Attorney Docket No. 10517/114 :

This is a decision on the petition, filed March 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 June 15, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3751 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper Number

In re application of
George Hoekstra et al.
Serial No. 10/093,567
Filed: March 6, 2002
For: DISTILLATE DESULFURIZATION PROCESS

DECISION ON
PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed April 5, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of February 17, 2004, for failure to timely file a proper reply to the Office letter of July 2, 2003, be withdrawn since the applicants did timely file a response thereto on December 31, 2003 by facsimile transmission to the USPTO. (A copy of the papers filed December 31, 2003 and a copy of the Facsimile Transmission Report indicating receipt of the facsimile transmission at the USPTO is attached to the instant petition.)

**DECISION**

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's response was properly filed on December 31, 2003 by facsimile transmission as evidenced by the properly completed Certification of Facsimile Transmission attached to applicant's response and by the copy of the Facsimile Transmission report provided with the instant petition which indicates the successful transmission, to a USPTO facsimile telephone number (703-872-9306), of 10 pages. Therefore, the application was never in-fact abandoned and any holding of abandonment for failure to timely file a proper response to the Office letter mailed on July 2, 2003 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for processing and consideration of the papers originally filed December 31, 2003 by facsimile transmission and a copy of which is provided as an attachment to the instant petition.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

CAROL WILSON
BP AMERICA INC.
MAIL CODE 5 EAST
4101 WINFIELD ROAD
WARRENVILLE IL 60555

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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NASA GODDARD SPACE FLIGHT CENTER
8800 GREENBELT ROAD, MAIL CODE 140.1
GREENBELT MD 20771

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OFFICE OF PETITIONS

In re Application of :
Vranish : DECISION ON PETITION
Application No. 10/093,621 :
Filed: June 18, 2002 :
Docket No.: GSC 14,413-1 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 8, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action mailed January 24, 2006. The Notice set a one month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed August 28, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center 3600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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JACOBSON & JOHNSON
ONE WEST WATER STREET
SUITE 285
ST. PAUL, MN 55107

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MAR 1 0 2006

OFFICE OF PETITIONS

In re Application of :
Joseph A. King :
Application No. 10/093,651 : DECISION GRANTING PETITION
Filed: March 11, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5608 :

This is a decision on the petition, filed March 9, 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 10, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1724 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement filed October 17, 2005 (certificate of mailing date of October 13, 2005).

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

James M. Hunter
464 Whispering Oak Lane
Apopka, FL 32712

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OFFICE OF PETITIONS

In re Application of :
Holt et al. :
Application No. 10/093,674 : ON PETITION
Filed: March 8, 2002 :
Title: Dynamic software control :
interface and method :

This is in response to petition under 37 CFR 1.137(b), filed December 21, 2005, to revive the above-identified application.

On September 21, 2004, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. In the absence of a timely filed reply, the application became abandoned on December 22, 2004. On August 5, 2005, the Office mailed a Notice of Abandonment. On December 21, 2005, petitioner filed the present petition to revive under 37 CFR 1.137(b), signed by practitioner, Anthony R. Barkume, and a Declaration of Support, signed by joint inventor, James Hunter.

37 CFR 1.33(b) states in pertinent part:

> Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A patent practitioner of record appointed in compliance with § 1.32(b);
>
> (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
>
> (3) An assignee as provided for under § 3.71(b) of this chapter; or

> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Furthermore, the Office notes:

> Papers giving or revoking a power of attorney in an application generally require signature by all the applicants or owners of the application. Papers revoking a power of attorney in an application (or giving a power of attorney) will not be accepted by the Office when signed by less than all of the applicants or owners of the application unless they are accompanied by a petition under 37 CFR 1.36(a) and fee under 37 CFR 1.17 (h) with a showing of sufficient cause (if revocation), or a petition under 37 CFR 1.183 and fee under 37 CFR 1.17(f) (if appointment) demonstrating the extraordinary situation where justice requires waiver of the requirement of 37 CFR 1.32(b)(4) that the applicant, or the assignee of the entire interest of the applicant sign the power of attorney. The petition should be directed to the Office of Petitions. The acceptance of such papers by petition under 37 CFR 1.36 (a) or 1.183 will result in more than one attorney, agent, applicant, or owner prosecuting the application at the same time. Therefore, each of these parties must sign all subsequent replies submitted to the Office. See In re Goldstein, 16 USPQ2d 1963 (Dep. Assist. Comm'r Pat. 1988).

MPEP 410.12.

All applicants must sign a petition in a joint application where all of the applicants have not given power of attorney to a registered attorney or agent. Mr. Barkume signed the present petition. There is no indication that the other joint inventors gave power of attorney to either Mr. Barkume or Mr. Hunter to prosecute this application. Additionally, Mr. Barkume did not show that he was acting in a representative capacity on behalf of all of the applicants in compliance with 37 CFR 1.34(a). Accordingly, the petition is not properly signed by a person having authority to prosecute the application without the signatures of all of the applicants.

Consequently, the Office will not address the merits of the present petition seeking revival of this abandoned application. The petition is dismissed.

**As a one-time courtesy,** the Office will mail this decision to Mr. Hunter. However, all future correspondence will continue to be mailed to Duane A. Holt, Apt. 1305, 2729 Maitland Crossing Way, Orlando FL 32810, absent a change of correspondence signed by the appropriate person(s). The Office reminds petitioner that all of the applicants must sign a request to change the correspondence address, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with 37 CFR 3.71. See 37 CFR 1.33(2)(b)(4).

If Mr. Hunter desires to appoint a power of attorney to Mr. Barkume, Mr. Hunter must submit a petition under 37 CFR 1.183 and fee under 37 CFR 1.17(f), demonstrating the extraordinary situation where justice requires waiver of the requirement of 37 CFR 1.32(b)(4) that the applicants, or the assignee of the entire interest of the applicant(s) sign the power of attorney.

As previously stated above, the Office will not render a decision on this matter and the application will remain abandoned, until a new petition under 37 CFR 1.137(b) is filed and signed by a person(s) having authority to prosecute the application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

C.T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ANTHONY R. BARKUME
20 GATEWAY LANE
MANORVILLE NY 11949

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OFFICE OF PETITIONS

In re Application of :
Holt et al. :
Application No. 10/093,674 : ON PETITION
Filed: March 8, 2002 :
Title: Dynamic software control :
interface and method :

This is a decision on the petition under 37 CFR 1.137(b), filed June 23, 2006, to revive the above-identified application.

On September 21, 2004, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. In the absence of a timely filed reply, the application became abandoned on December 22, 2004. On August 5, 2005, the Office mailed a Notice of Abandonment.

Petitioner has met the requirements under 37 CFR 1.137(b). Accordingly, the petition is **granted**.

The application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of Application No. 11/313,264, filed December 21, 2005.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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KATTEN MUCHIN ROSENMAN, LLP / ARBITRON INC.
(C/O PATENT ADMINISTRATOR)
2900 K STREET NW, SUITE 200
WASHINGTON, DC 20007-5118

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In re Application of :
Jack C. Crystal, et. al. :
Application No. 10/093,676 : ON PETITION
Filed: March 8, 2002 :
Attorney Docket No. 03382-P0033A :

This is a decision on the petition under 37 CFR 1.137(b), filed on September 23, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice of Allowance and Fee(s) Due mailed May 15, 2008. A Notice of Abandonment was mailed on September 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,440 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The undersigned has reviewed the Power of Attorney filed on February 27, 2008 and concludes that the Power of Attorney is in compliance with the requirements of 37 CFR 3.73(b). Therefore, the Notice Regarding Power of Attorney mailed on August 27, 2008 is hereby vacated and a Notice of Acceptance accompanies this decision.

The Office acknowledges receipt of $9 for three advanced order soft copies submitted on September 23, 2008.

This application file is being referred to the Office of Data Management for further processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 10/093,676 | 03/08/2002 | Jack C. Crystal | 03382- P0033A |

**CONFIRMATION NO. 3310**

**POA ACCEPTANCE LETTER**

77182
KATTEN MUCHIN ROSENMAN LLP / ARBITRON INC.
(C/O PATENT ADMINISTRATOR)
2900 K STREET NW, SUITE 200
WASHINGTON, DC 20007-5118

*OC000000033125009*

Date Mailed: 11/17/2008

## NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/27/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amsmith/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

NOV - 8 2002

UR
PAPER NO. 7

| | | |
|---|---|---|
| In re Application of | : | |
| Horst Vogel et al. | : | DECISION |
| Serial No. 10/093,680 | : | ON |
| Filed: March 07, 2002 | : | PETITION |
| For: MULTIAPERTURE SAMPLE POSITIONING | : | UNDER 708.02,XII |
| AND ANALYSIS SYSTEM | : | Small Entity |

This is in response to the petition filed March 07, 2002, requesting that the above-identified application be granted Special Status under Sections 708.02 (XII) of the MPEP and 37 CFR 1.102(c) (fee paid).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is **GRANTED.**

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

Kolisch Hartwell, P.C.
520 S.W. Yamhill Street, Suite 200
Portland, OR 97204

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER.FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

Price, Heneveld, Cooper, DeWitt & Litton
695 Kenmoor, S.E.
P.O. Box 2567
Grand Rapids, MI 49501

In re Application of
Robert Keller, William Cretens, Kent Depuydt, Dana Trierweiler, Russell Johnson and Dean Wickoren
Application No.10/093,690
Filed: March 8, 2002
Attorney Docket No. INF06 P-300
Title of Invention: METHOD AND APPARATUS FOR REMEDIATING WASTWATER HOLDING AREAS AND THE LIKE

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

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SEP 24 2002

OFFICE OF PETITIONS

This is in response to the petition under 37 CFR 1.47(a), filed August 13, 2002.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor, Wickoren, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition indicates the application papers were sent to the inventor's last known address via certified mail. Petitioner submitted evidence that establishes the package was received. A declaration from joint inventor Trierweiler, states non-signing inventor Wickoren did not wish to be a party to this application. The non-signing inventor's failure to respond to the application mailings and non-signing inventor's statement he did not wish to be a party in this application sufficiently establishes that he refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

for Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Dean R. Wickoren
17096 West 295th Street
Paola, Kansas 66971

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SEP 2 4 2002

OFFICE OF PETITIONS

LETTER

In re Application of
Robert Keller, William Cretens, Kent Depuydt, Dana Trierweiler, Russell Johnson and Dean Wickoren
Application No.10/093,690
Filed: March 8, 2002
Attorney Docket No. INF06 P-300
Title of Invention: METHOD AND APPARATUS FOR REMEDIATING WASTWATER HOLDING AREAS AND THE LIKE

Dear Mr. Wickoren:

You Dean Wickoren are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

per D Wood

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Carl S. Clark
Price, Heneveld, Cooper, DeWitt & Litton
695 Kenmoor, S.E.
P.O. Box 2567
Grand Rapids, MI 49501

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 7

MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC
12010 SUNSET HILLS ROAD
SUITE 900
RESTON VA 20190

COPY MAILED

DEC 0 3 2003

OFFICE OF PETITIONS

In re Application of :
Julio Estrada :
Application No. 10/093,713 : ON PETITION
Filed: March 11, 2002 :
Attorney Docket No. 24569-002 :

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed August 1, 2003.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on March 11, 2002, with a nonpublication request and certification under 35 U.S.C. 122(b)(2)(B)(i). On January 14, 2003, applicant filed a Request to Rescind Previous Nonpublication Request.

With the instant petition, applicant states that the application was foreign filed on January 14, 2003.

As a Request to Rescind Previous Nonpublication Request was filed on January 14, 2003, the same day as the foreign filed application, the instant application will be treated as if the nonpublication request was never made.[1]

As requested, the Request and Certification Under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded.

The petition fee of $650 will be refunded under separate cover.

---

[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)", 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

The application file is being forwarded to Technology Center 2100, Group Art Unit 2143, 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

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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JAN 2 6 2004
Technology Center 2100

Paper No. 9

MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC
12010 SUNSET HILLS ROAD
SUITE 900
RESTON VA 20190

In re Application of: JULIO ESTRADA
Application No.: 10/093,713
Filed: March 11, 2002
For: **ELECTRONIC MAIL APPLICATION WITH INTEGRATED COLLABORATIVE SPACE MANAGEMENT**

) **DECISION ON PETITION FOR**
) **ACCELERATED EXAMINATION**
) **UNDER M.P.E.P. §708.02(VIII)**
)

This is a decision on the Petition to Make Special, filed October 07, 2002 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII), requesting the Accelerated Examination of the above-identified application.

The petition is **DISMISSED**.

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**, or if the Office determines that all the claims presented are not obviously directed to a single invention, will **make an election without traverse** as a prerequisite to the grant of special status.
>
> (C) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a **detailed discussion** of the references, which discussion points out, with the **particularity** required by 37 CFR 1.111(b) and (c), **how** the claimed subject matter is patentable over the references.
>
> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner (emphasis added).

Petitioner has submitted a fee under 37 CFR 1.17(h), one copy of each of the references, a statement that a search has been made and provided a list of the field of search by class and subclass. Although the petition does not state that "each of the references deemed most closely related to the subject matter encompassed by the claims," Petitioner's submission of the references is construed as "deemed most closely related to the subject matter encompassed by the claims." Therefore, Petitioner has complied with the above-mentioned items (A), (C), and (D).

The petition, however, is defficient with respect to items (B) and (E) above:

1. The petition does not contain the statement that Applicant will make an election ***without traverse*** if the Office determines that all claims are not obviously directed to a single invention.

2. Petitioner's submission does not provide a **detailed** discussion of the references, which points out, with the **particularity** required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references. Petitioner's submission provides short summaries (2 to 5 lines) of the cited references, and concludes that each reference fails to disclose "an electronic mail module" or "an **integrated** collaborative workspace module" (emphasis added). The limitation "a collaborative workspace module" of the independent claim 97 does not recited "integrated." Short summaries of the cited references and comparison between the references and a term not claimed, without more, do not comply with the above-mentioned item (E).

Accordingly, the Petition is **DISMISSED**. The application file will be forwarded to the Central Files of Technology Center 2100 to await examination in its proper turn based on its effective filing date. Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.

Bot LeDynh, J.D., Ph.D.
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-0651

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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LERNER AND GREENBERG P.A.
PO BOX 2480
HOLLYWOOD, FL 33022-2480

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JUL 1 3 2004

OFFICE OF PETITIONS

In re Application of :
Renner et al. :
Application No. 10/093,721 : ON PETITION
Filed: March 8, 2002 :
Attorney Docket No. J&R-0843 :

This decision concerns the June 21, 2004 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

On October 20, 2003, a final Office action was mailed, setting forth a 3-month shortened statutory reply period. A proposed amendment, timely filed on January 20, 2004, did not place the application in condition for allowance and was not entered by the Examiner. The application became abandoned on June 10, 2004 as pointed out in the June 10, 2004 Advisory Action.

The instant petition encloses a Request for Continued Examination (RCE) and instructs the USPTO to use the January 20, 2004 proposed amendment as the RCE "submission" required by 37 CFR 1.114; authorizes the USPTO to charge the $1,330 petition fee and the $770 RCE filing fee to a credit card; and states in essence that the entire delay in responding to the October 20, 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. Prosecution in the application is reopened.

The application file is being returned to Technology Center 2800 for continued examination.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6855137
Issue Date: February 15,2005
Application No. 10093757
Filed: March 7,2002
Attorney Docket No. 2M02.1-130

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 25,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 25,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

# PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---|---|---|---|---|
| 6855137 | 2005-02-15 | 10093757 | 2002-03-07 | |

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 | /JLD/ | Date (YYYY-MM-DD) | 2010-04-25 |
| Name | John L. Doughty | Registration Number | 47533 |

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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**HAYNES BEFFEL & WOLFELD**
**P O BOX 366**
**HALF MOON BAY, CA 94019**

**COPY MAILED**

JAN 21 2005

**OFFICE OF PETITIONS**

In re Application of :
Eric West et al :
Application No. 10/093,767 : ON PETITION
Filed: March 7, 2002 :
Attorney Docket No. LISP-01084US0 :

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 submit the issue/publication fee in a timely manner in reply to the Notice of Allowance mailed September 21, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 22, 2004.

The drawings filed on January 3, 2005 have been approved by the Draftsperson. A copy of the Notice of Draftsperson's Patent Drawing Review (PTO-948) is attached.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: PTO-948

UNITED STATES 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. 6956474
Issue Date: October 18,2005
Application No. 10093772
Filed: March 8,2002
Attorney Docket No. AMANO-003A

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 21,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 21,2009 . 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.

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) |
|---|---|---|---|---|
| 6,956,474 | 2005-10-18 | 10/093,772 | 2002-03-08 | AMANO-003A |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

| NOT Small Entity | | | Small Entity | | |
|---|---|---|---|---|---|
| | Fee | Code | | Fee | Code |
| ◯ | 3 ½ year | (1551) | ◉ | 3 ½ year | (2551) |
| ◯ | 7 ½ year | (1552) | ◯ | 7 ½ year | (2552) |
| ◯ | 11 ½ year | (1553) | ◯ | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

◯ A sole patentee

◯ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

◯ A joint patentee; all of whom are signing this e-petition

◯ The assignee of record of the entire interest

| Patent Practitioner | | | |
|---|---|---|---|
| A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature | | | |
| Signature | /Bruce B. Brunda/ | Date (YYYY-MM-DD) | 2009-12-21 |
| Name | Bruce B. Brunda | Registration Number | 28497 |

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.**

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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.

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**PO BOX 33427**
**ST. PAUL, MN 55133-3427**

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MAY 23 2005

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Bergsten et al. | : | |
| Application No. 10/093,792 | : | ON PETITION |
| Filed: March 8, 2002 | : | |
| Attorney Docket No. 57419US002 | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 4, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the final Office action mailed July 12, 2004. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on January 13, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to 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
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/18/08

TO SPE OF : ART UNIT 2443

SUBJECT : Request for Certificate of Correction for Appl. No.: 10093819 Patent No.: 7412485 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

_____
Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

| | | |
|---|---|---|
| [X] | Approved | All changes apply. |
| ❑ | Approved in Part | Specify below which changes do not apply. |
| ❑ | Denied | State the reasons for denial below. |

Comments: APPROVED

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Nathan J. Flynn/

Digitally signed by /Nathan J. Flynn/
DN: cn=/Nathan J. Flynn/, c=US, o=TC 2100
Date: 2008.12.31 09:28:51 -05'00'

SPE Art Unit